

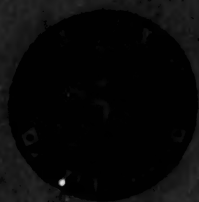
MID-AMERICA

An Historical Review

UNIVERSITY
OF MICHIGAN

MAY 10 1954

PERIODICAL
READING ROOM



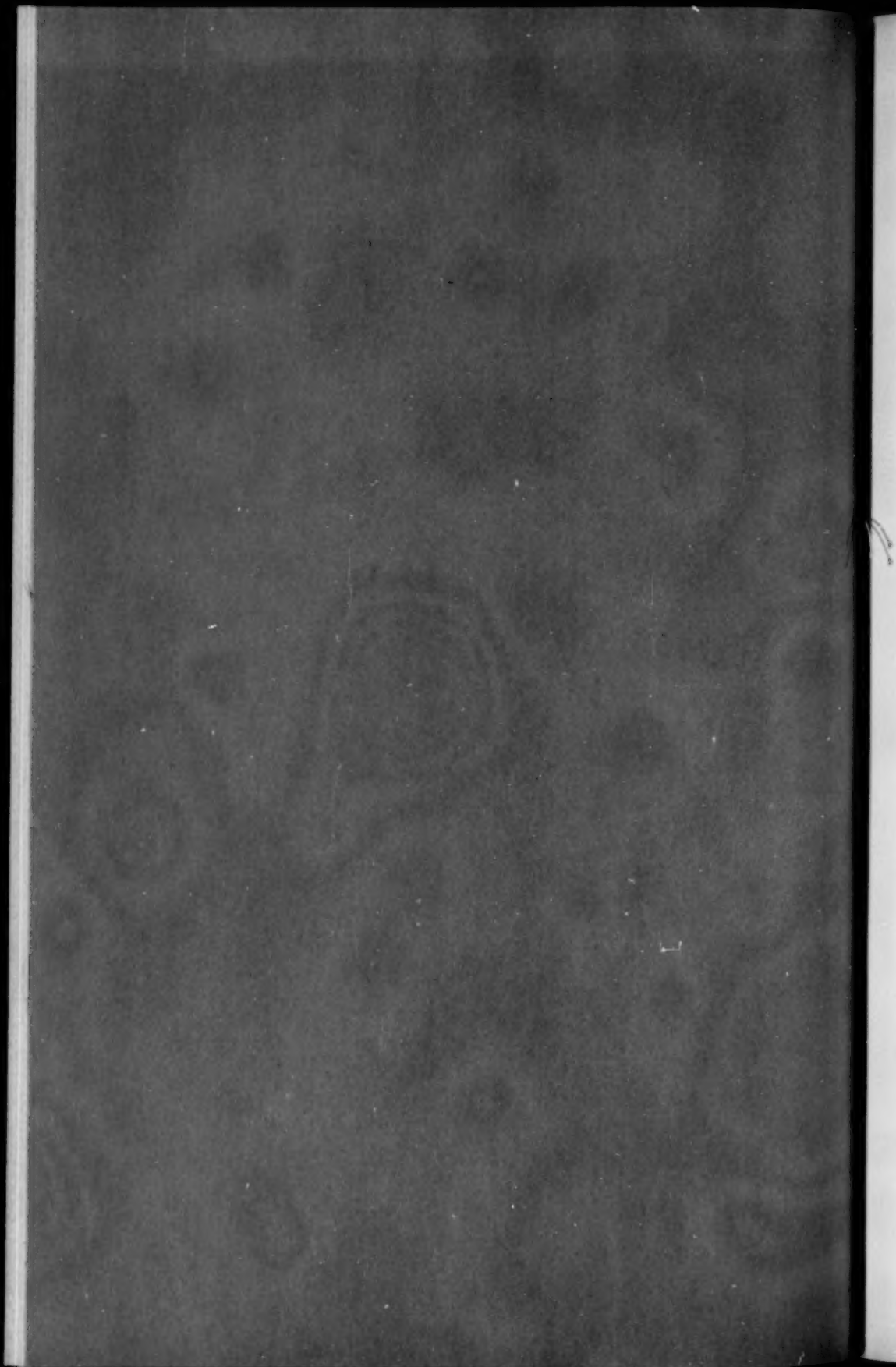
APRIL
1954

VOLUME 36

NEW SERIES, VOLUME 25

NUMBER 2

PUBLISHED BY LOYOLA UNIVERSITY
CHICAGO 26, ILLINOIS



MID-AMERICA

An Historical Review

VOLUME 36, NUMBER 2

APRIL 1954

MID-AMERICA

An Historical Review

APRIL 1954

VOLUME 36

NEW SERIES, VOLUME 25

NUMBER 2

CONTENTS

PRESIDENTS AND CONSTITUTIONS

IN THE AMERICAS, PART II *Joseph Menez* 75

MEXICO: PRESIDENT AND

CONSTITUTION *Stephen S. Goodspeed* 96

SANDINO: DEATH AND AFTERMATH *Joseph O. Baylen* 116

BOOK REVIEWS 140

MANAGING EDITOR

JEROME V. JACOBSEN, *Chicago*

EDITORIAL STAFF

WILLIAM STETSON MERRILL

J. MANUEL ESPINOSA

W. EUGENE SHIELS

RAPHAEL HAMILTON

PAUL KINIERY

PAUL S. LIETZ

Published quarterly by Loyola University (The Institute of Jesuit History) at 50 cents a copy. Annual subscription, \$2.00; in foreign countries, \$2.50. Publication and editorial offices at Loyola University, 6525 Sheridan Road, Chicago 26, Illinois. All communications should be addressed to the Managing Editor. Entered as second class matter, August 7, 1929, at the post office at Chicago, Illinois, under the Act of March 3, 1879. Additional entry as second class matter at the post office at Effingham, Illinois. Printed in the United States.

MID-AMERICA

An Historical Review

APRIL 1954

VOLUME 36

NEW SERIES, VOLUME 25

NUMBER 2

Presidents and Constitutions in the Americas

Part II

In the preceding part of this continued article consideration was given to the relationship of presidents to legislatures in the Americas under their respective constitutions, with emphasis on the initiation and influencing of legislation. The addresses of the president to the legislators, his control over sessions and budgetary matters, his powers of veto and administrative regulations as carried to an extreme in some countries of Latin America—all have tended to make the executive very powerful. In their turn the legislatures, notably independent of the executive in the United States, Chile, and Uruguay, have been equally powerful in the legislative and governmental process. The power of impeachment, of congressional investigation particularly, and of control over the president's movements have assumed noteworthy proportions, whose legal and political consequences will be the subject of the following discussion.

Impeachment

The impeachment process in Latin America as in the United States, for the most part, begins in the lower chamber.¹ In several other constitutions impeachment is by the single (unicameral) national assembly,² while in Bolivia it is by either branch. In

¹ Argentina (Art. 52), Brazil (Art. 59), Colombia (Art. 102, cl. 5), Chile (Art. 59, cl. 1), Ecuador (Art. 50), Mexico (Art. 75, cl. 5), Nicaragua (Art. 172), Peru (Art. 121), Uruguay (Art. 84), United States (Art. 1, Sec. 2).

² Costa Rica (Art. 151), El Salvador (Art. 162), Guatemala (Art. 116), Honduras (Art. 101, cl. 14), and Panama (Art. 119).

Venezuela the Supreme Court takes cognizance of impeachment provisions against the President, Vice-President and other high officials.³ The fact that the President is answerable to the lower chamber seems to be in keeping with the theory that it is the democratic or popular branch of the government that should control this important process.

The president of the United States can be impeached for treason, bribery and other high crimes and misdemeanors.⁴ Treason and bribery are definite enough in meaning, but not so high crimes and misdemeanors which are flexible and indefinite. This phrase does not necessarily mean indictable offences, for President Andrew Johnson was impeached, among other reasons, for making speeches denouncing Congress.⁵

The president in Latin America can be removed following illegal acts against the administration of the state, its honor, security, integrity, or for openly infringing on the laws or the constitution.⁶ The phrases "common crimes," "crimes in connection with those of the President," "common offences," are used apparently in the same sense as the phrase "other high crimes and misdemeanors" is used in the Constitution of the United States. "It would seem, therefore, that any misconduct which affects the public welfare or indicates the unfitness of the official renders him subject to impeachment."⁷ In two constitutions treason is a specified cause of impeachment.⁸ No doubt, however, any action by a president or vice-

³ Bolivia (Art. 61, cl. 12), and Venezuela (Art. 220, 221).

⁴ Article 2, Section 4.

⁵ John Mabry Mathews, *The American Constitutional System*, New York, 1940, 116. Edwin Corwin, *The Constitution and What It Means Today*, Princeton, 1946, 9. *Rules and Manual United States House of Representatives*, 76th Cong. 3rd Sess., House Document, No. 665, Sec. 194, 58. Congress has at times been quick to talk of impeaching the President; see Sydney Hyman, *The American President*, New York, 1954, 82, for accounts in which Washington was criticized for concluding the Jay Treaty and Representative Andrew Jackson demanded that he be impeached. When President Andrew Jackson was censured by the Senate for removing the Secretary of the Treasury, he hastily reminded the Congress that it was not within the constitutional privilege of Congress to condemn the President except through impeachment; see Woodrow Wilson, *Division and Reunion, 1829-1909*, New York, 1910, 84. When President Harry Truman refused to make public to a congressional investigating committee loyalty files on Federal employees, Senator Homer Ferguson suggested impeachment because "Presidential arrogance is becoming intolerable," *New York Times*, August 8, 1948.

⁶ Brazil (Art. 89) has a long list of items restricting the President. See also the phrasing in the Constitutions of Colombia (Art. 97, cl. 2), El Salvador (Art. 98), and Nicaragua (Art. 178, cl. 1, 2).

⁷ Mathews, 116.

⁸ Uruguay (Art. 84), Mexico (Art. 108).

president bordering on treason could be included in these broad limits. The Argentine Constitution does not mention any reasons for impeachment, while the Ecuadorean Constitution specifies that only Ecuadorans can introduce charges of treason.⁹

In addition to reaching the President, the impeachment article in the United States Constitution reaches "all civil officers" of the federal government.¹⁰ Congressmen, for example, are not civil officers for, according to Article I, Section 6, no congressman during his term can be appointed to any civil office under the authority of the United States.¹¹ Lending weight to this opinion is the fact that the Constitution provides a different manner for expelling Congressmen.¹² Furthermore, in 1798 there was an attempt to impeach Senator Blount which failed.¹³ Impeachment proceedings have never been instituted against a military officer since he is, supposedly, subject to court martial; and it is agreed generally that Congress has no control in this case.¹⁴

In general, Latin American constitutions spell out what the term "civil officers" means. In addition to the president and vice-president (as in Bolivia, Art. 61, cl. 12) the term includes ministers, diplomatic agents and the comptroller general of the republic, or such others as the Attorney General and Supreme Court Justices.¹⁵

The Constitution of the United States and the constitutions of Latin America, in general, provide not only for the impeachment of the president and vice-president and other high civil officers but for their indictment and punishment according to the law. In the United States the President would be subject to the proper court

⁹ Argentina (Art. 52, 53), and Ecuador (Art. 52).

¹⁰ Article 2, Section 4; for a discussion of impeachment in a classic work see the *Federalist* by Alexander Hamilton, John Jay, and James Madison, Everyman Edition, Nos. 65 and 66.

¹¹ Mathews, 114. *The Constitution of the United States (Annotated)*, Senate Document 232, 74th Cong., 2nd Sess., 403.

¹² Congress is the final authority in judging the elections, returns, and qualifications of its members; (Art. 1, Sec. 5, cl. 1).

¹³ Mathews, 115.

¹⁴ Claudius C. Johnson, *American Government*, New York, 1951, 357; Paul C. Bartholomew, *American Government Under the Constitution*, Dubuque, Iowa, 1949, 133.

¹⁵ Colombia (Art. 102, cl. 5), and Panama (Art. 119). In September 1946, the Argentine Chamber of Deputies impeached four members of the Supreme Court and the Attorney General. One resigned while the Attorney General and three others "separated." Technically they were not impeached. The Argentine Constitution does not establish any procedure but impeachment for removing officers from their positions; see Asher N. Christensen, "Political Events and Governmental Changes in Argentina, 1943-1948," *Political, Economic, and Social Problems of the Latin American Nations of Southern South America*, Austin, 1949, 103.

of jurisdiction if, following his conviction, he were tried for an indictable offense. This does not constitute double jeopardy. Furthermore, he could not pardon himself since pardons do not cover impeachments.¹⁶ Decrees and resolutions of an impeachment nature in Honduras cannot be vetoed. (Art. 110, cl. 4).

In a number of states the president is subject to the supreme court for crimes indictable by law.¹⁷ Unlike the United States practice in which the President continues to hold office during the impeachment trial, in several Latin American states the president is temporarily suspended. In Brazil, the Chamber of Deputies on an absolute majority vote can "declare founded or unfounded" accusations against the President.¹⁸ The Senate has exclusive power to judge these officials. Meanwhile, once the accusations are substantiated, the President shall "be suspended from his functions." When the accusation is approved by a two-thirds vote of the chamber of representatives, (in Uruguay, Art. 160) the President shall be suspended from exercising his functions.

After the impeachment charges are introduced in the lower house the universal practice is for the person impeached to be tried in the upper house. In the United States the impeachment machinery is begun by a member of the House, a presidential message to the House, by a state legislature or other interested parties.¹⁹ According to the Constitution of El Salvador (Art. 162) "any person has a right to charge the offenses . . . and to appear as a party if he possesses the qualifications required by law for that." In Chile, the Chamber of Deputies, on the approval of at least ten members, can introduce charges of impeachment, and in Guatemala, Nicaragua, Uruguay and Argentina by a two-thirds vote of the total number of deputies of the congress.²⁰ In the United States the articles of impeachment can be voted by a simple majority. Following a committee report the House notifies the Senate and House prosecutors, known as managers, to conduct the trial. Each Senator is under oath to render impartial justice. The trial is very much like an

¹⁶ Article 2, Section 2, cl. 1.

¹⁷ By the Federal Supreme Tribunal in Brazil (Art. 88, 101, cl. 1), The Supreme Court in Colombia (Art. 97, cl. 2), and Nicaragua (Art. 178, cl. 1, 2), by the court having jurisdiction in Chile (Art. 42, cl. 1), Ecuador (Art. 46), Honduras (Art. 187), and the Supreme Court in Peru (Art. 122), Uruguay (Art. 93), and Venezuela (Art. 221).

¹⁸ Brazil (Art. 59, 88).

¹⁹ *Rules and Manual of the United States House*, Sec. 603, 272-273.

²⁰ Chili (Art. 39), Guatemala (Art. 116), Nicaragua (Art. 172), Uruguay (Art. 160), and Argentina (Art. 52).

ordinary court trial.²¹ The accused has lawyers, witnesses are subpoenaed, examined and cross-examined. The public attends.²² If the President does not attend the session at which he is cited in Chile (Art. 42, cl. 1), or does not send a written defence, the Senate can renew the citation or proceed without his defence. The same is true in Nicaragua (Art. 177). Nor, in the United States, does the accused have to appear at his impeachment trial. On his own authority, he does not have to be represented by an attorney. The House will not compel him to appear and the trial proceeds on a plea of not guilty. In fact, "it has been decided that the Senate has no power to take into custody the body of the accused."²³

There was some dispute in the United States as to whether an impeached officer could escape the charges by resigning from office. In 1876 Secretary of War, William Belknap, resigned under impeachment charges and his resignation was accepted by President Grant. The Senate continued, however, with the trial. Secretary Belknap claimed that he was beyond senatorial control since when impeached he was not a civil officer. The Senate continued the impeachment proceedings but subsequently acquitted him. It appears that resignation does not deprive the Senate of its power to try impeachments. Neither can the officials in Argentina escape punishment by resigning.²⁴ "The principal reason for this view is that the United States Constitution specifies as possible penalty for conviction on impeachment not only removal from office but also disqualification to hold office in the future."²⁵ Otherwise, if an officer's resignation were accepted he could at any time escape impeachment. Removal from office if guilty appears to be automatic but whether he can hold any other position under the United States is left to the Senate.²⁶

²¹ "Although the Senate sits as a court, it is not compelled to follow all the technical rules of judicial procedure, such as those, for example, relating to the admissibility of evidence." Mathews, 113. In 1868 the Senate overruled the old view of its functions deciding that it sat for impeachment trials as the Senate and not as a court and thus eliminated from its rules any mention of itself as a high court of impeachment; *Rules and Manual of the United States House*, Section 38, 14.

²² *The Constitution (Annotated)*, 408.

²³ *Rules and Manual of the House*, Sec. 611, 276.

²⁴ C. A. Navaro and H. F. Hroncich, *Derecho Constitucional Argentino y Comparado*, Buenos Aires, 1939, 422.

²⁵ Mathews, 115.

²⁶ *Ibid.*, 114. There was discussion once whether the Constitution required removal and disqualification. In the Pickering case the Senate decreed only removal, and in the Humphrey case both removal and disqualification; these are now left to a vote; *Rules and Manual of the Senate*, Sec. 41, 276. The Senate is not absolutely opposed to resignation, as shown in the Andrew Mellon case, when in 1930 Mellon resigned as Secretary of

Several Latin American states require that the President remain in the country for a number of months, usually six to twelve following his term and that during this time, although not in office, he is subject to impeachment proceedings.²⁷ There is no similar provision in the United States Constitution providing either for impeachment following a constitutional term of office or for staying in the country for a specified time. In early November, 1953, Representative Harold Velde, Chairman of the House Un-American Activities Committee, following a disclosure by Attorney General Herbert Brownell that Mr. Truman while President had permitted a known communist, Dexter White, to work in the Administration, issued a subpoena demanding that the Ex-President appear before the Committee. Basing his refusal on long constitutional practice and the doctrine of the separation of powers, he refused. The doctrine, he said,

must be equally applicable to a President after his term of office has expired when he is sought to be examined with respect to any acts occurring while he is President. The doctrine would be shattered . . . if he would feel during his term of office that his every act might be subject to official inquiry and possible distortion for political purposes.²⁸

Conviction on impeachment charges is generally by a two-thirds vote. The rule in the United States, Argentina and Colombia is conviction by two-thirds of the members present and voting.²⁹ This, no doubt, as in the United States, means two-thirds of a quorum.³⁰ In Chile it is two-thirds of the Senators entitled to vote when the President is being impeached and, in other cases, by a majority of the Senators. Similarly, Congress proceeds against the President in Guatemala, Mexico, Uruguay and Costa Rica following a two-thirds vote of the total number of deputies of the Congress.³¹

the Treasury while being considered for impeachment, and subsequently was appointed ambassador to England; Wright Patman, *Our American Government*, Chicago, 1948, 128.

²⁷ It is six months in Chile (Art. 39, 1.1) and Uruguay (Art. 160), one year in Costa Rica (Art. 150), Ecuador (Art. 52) and Nicaragua (Art. 172), and five years in Honduras (Art. 188).

²⁸ *The New York Times*, November 15, 1953, Sec. 4, E, contains the full initial charges and countercharges by all principals.

²⁹ In the United States "two-thirds of the members present," (Art. 1, Sec. 3, cl. 6), in Argentina "two-thirds majority of the members present," (Art. 52), and in Colombia "two-thirds of the Senators present," (Art. 97, cl. 4).

³⁰ Corwin, *The Constitution*, 9, 139.

³¹ Guatemala (Art. 116), Mexico (Art. 11), Uruguay (Art. 92), Costa Rica (Art. 110, cl. 9).

The Chief Justice of the Supreme Court presides in the United States Senate when the President is being tried.³² This is also true according to several Latin American constitutions.³³ When the Argentine President is impeached the head of the Supreme Court presides; if it is the Vice-President then the presiding officer is the provisional president or the vice-president of the Senate. In all other cases, the presiding officer is the vice-president.³⁴ In the United States this is the only connection the Court has with impeachment proceedings. The Chief Justice's part was devised by the founding fathers to offset any direct influence the Vice-President might have in the impeachment proceedings since he is normally the President of the Senate.³⁵ In Latin America, however, the court in several states plays a prominent part in impeachment trials. In El Salvador, for example, the Supreme Court receives accusations and denunciations against the public officials and decides if there is a basis for the charges. Also, sentences pronounced by the legislative chamber may be appealed to the Supreme Court.³⁶ It is interesting to note that an attempt was made by Madison to bring the Supreme Court more into the impeachment process by creating a special court, but he was defeated.³⁷ Thus "the decision of the Senate is final and not subject to appeal."³⁸ Most interesting, in Ecuador (Art. 51) is the provision that if the Chamber of Deputies or the Senate rejects accusation against the President "it may not be renewed on the same grounds that motivated it unless it deals at the same time with those that constitute a common offense." This

³² Article 1, Section 3, cl. 6.

³³ Argentina (Art. 52) and Ecuador (Art. 45, cl. 6).

³⁴ Daniel Antokoletz, *Tratado de Derecho Constitucional y Comparado*, 2 Vols., Buenos Aires, 1933, II, 583.

³⁵ However, under the United States machinery for impeaching the President there is considerable room for bias. When President Andrew Johnson was impeached there was no Vice-President but a president *pro tempore* of the Senate. Under the succession law, as it then stood, he would succeed to the presidency if President Johnson were convicted. He presided and, unembarrassed, cast a vote for conviction. Mathews, 113. Although the Constitution contains nothing about who should preside when the Vice-President is under impeachment perhaps it ought to be the Chief Justice. The obvious unfairness in the Johnson case aside from the chairman casting a vote, is that the presiding officer has the power like the President of the Senate to rule on questions of law and procedure. But the Senate has full power "in determining its procedure and is now required to disqualify its members from alleged prejudice or interest." Corwin, 10.

³⁶ El Salvador (Art. 98, 162).

³⁷ Jane Butzner, *Constitutional Chaff*, New York, 1941, 39.

³⁸ Mathews, 113.

provision is similar to the restriction on recall provisions for ousting our State governors.³⁹

It would seem that the United States Senate has no right to refuse to hear an impeachment case, although, if it should refuse to do so, there would be no way of compelling it to act. Such a situation has never arisen.⁴⁰ When trying impeachments the Senate has power to compel the attendance of witnesses.⁴¹ Further, the witnesses have always been questioned in open Senate and never before a committee.⁴²

The impeachment article has in no country developed into a powerful legislative weapon over the president and other high officials. To the time of the publication of his book in 1925 Stuart asserts that no Peruvian president ever had impeachment proceedings directed against him. He gives two reasons, one, that during the first one hundred years of the Republic the average length of time the President held office was only three years, and two, the revolutionary method of eliminating presidents "has been so effectively and commonly used in Latin American countries that impeachment, which after all is of Anglo-Saxon origin, will never be a really satisfying substitute."⁴³ In Mexico no President has ever been impeached or brought to trial and, given the present political alignment, it is unlikely that impeachment proceedings will begin "no matter how valid they may be."⁴⁴ Finally, in Argentina it has not been an important weapon of the Congress to control the executive or judicial branches of the government.⁴⁵

Given the political instability of Latin America where succession is so frequently by revolution and *continuismo* and *caudillismo* prevail, it is unlikely that impeachment, as a legal weapon of the legislature to overthrow the executive, will become important.⁴⁶ In

³⁹ Clyde F. Snider, *American State and Local Government*, New York, 1950, 147.

⁴⁰ Mathews, 113.

⁴¹ *The Constitution (Annotated)*, 110, 408.

⁴² *Rules and Manual of the House*, Sec. 614, 277.

⁴³ Graham A. Stuart, *The Governmental System of Peru*, Washington, 1925, 40.

⁴⁴ Stephen S. Goodspeed, "The Role of the Executive in Mexico," unpublished doctoral dissertation, University of California, Berkeley, 1947, 376.

⁴⁵ Christensen, in *Political, Economic, and Social Problems*, 102.

⁴⁶ In 1893 the Bolivian Senate decreed impeachment for ex-President M. Hilarion Oaza for malversation and in 1932 of ex-President M. Siles for "violation of the general guarantees of the constitution" Franklin Antzana Paz. *La Régime Parlementaire en Bolivie*, Paris, 154. It was used

the United States impeachment has been little used and is cumbersome.⁴⁷ The process of impeachment, said Woodrow Wilson,

like those of amendment, are ponderous and difficult to handle. It requires something like a passion to set them a-going; and nothing short of the grossest offences against the plain law of the land will suffice to give them speed and effectiveness. Indignation so great as to overthrow party interest may secure a conviction; nothing less can. Indeed, judging by our past experiences, impeachment may be said to be a little more than an empty menace. The House of Representative is a tardy grand jury, and the Senate an uncertain court.⁴⁸

Jefferson said it was "not even a scarecrow."⁴⁹ It cannot be said to be a working method of the legislature for controlling the executive.⁵⁰ In the case of President Andrew Johnson it was frankly used by a Reconstructionist Congress for political ends.⁵¹ A Brazilian writer correctly asserts that impeachment should be judicial and not political.⁵² According to one student of comparative government "it may well become obsolete as it has in Britain, where the last case of successful impeachment of a minister before the House of Lords was in 1806."⁵³

recently as a post-revolutionary device in Panama. President Arnulfo Arias suspended the Constitution of 1945 in favor of the constitution of 1941 which gave him dictatorial powers. An ensuing riot caused the death of forty persons. The First Vice-President, Alcibiades Arosemena was installed as President following Arias' impeachment by the National Assembly. He was barred from office for life. The Supreme Court upheld the National Legislature. Germán Arciniegas, *The State of Latin America*, translated by Harriet de Onis, New York, 1952, 281-284.

⁴⁷ Corwin, *The Constitution*, 11.

⁴⁸ Woodrow Wilson, *Congressional Government*, Cambridge, 1913, 275-276.

⁴⁹ Mathews, 116.

⁵⁰ There have been thirteen impeachments, counting the abortive attempt against Senator Blount, four convictions and several resignations. Four judges were removed and one resigned under fire. Four judges were acquitted; William Belknap, Secretary of War under Grant, was acquitted. And, of course, President Andrew Johnson was acquitted. William Linnaeus Ludlow, *The American Constitution*, New Concord, Ohio, 1941, 157-160.

⁵¹ For a discussion of impeachable offences and of President Johnson's trial, see *Rules and Manual*, 57-58. For the articles of impeachment against Johnson see William Macdonald, *Documentary Source Book of American History*, 1909, 518-529.

⁵² Pedro Calmon, *Curso de Direito Constitucional Brasileiro*, Rio de Janeiro, 1947, 190.

⁵³ J. A. Corry, *Elements of Democratic Government*, New York, 1951, 161. "With the development of a direct political responsibility of the ministers to Parliament and the acknowledgment that he must resign when he lost its confidence, impeachment became obsolete" in England. H. R. G. Graves, *The British Constitution*, New York, 1941, 105.

Congressional Investigations

That the legislature possesses the inquisitive power or the power to investigate, as in the United States, "to elicit information which is reasonably conducive to the effective exercise of its constitutional powers,"⁵⁴ is beyond doubt. In the case of *McGrain v. Daugherty* the Supreme Court of the United States said in part:

A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who do possess it.⁵⁵

Pereira, the Brazilian scholar, believes that the power of the United States Congress to investigate is founded in Article 1, Section 8, clause 18, the "necessary and proper" clause.⁵⁶ Further, the power of investigation in the Argentine Constitution is, as in the United States Constitution, implicit.⁵⁷ Nor, according to Lerena Acevedo, does this power violate the doctrine of separation of powers.⁵⁸ In the ministerial type of government it is within the competency of congress to summon ministers for questioning. The right of the investigation conceded constitutionally requires all the necessary faculties to make its will effective and hence the legislative commission can summon a minister if necessary for the success of its inspection.⁵⁹

In the United States there are two kinds of constitutional limitations on Congress' power to investigate, one, "that the information

⁵⁴ Mathews, 108. Three reasons for using the investigation power are: (1) it will hold the executive to account, (2) it will control executive expenditures, and (3) it will help make laws. Aquinaldo Costa Pereira, *Comissoes Parlamentares de Inquerito*, Rio de Janeiro, 1948, 78, 95. The United States 82nd Congress was the "investigating-est Congress on record." It conducted more than 130 special investigations not directly connected with pending legislation; *New York Times*, October 21, 1951.

⁵⁵ 273 U. S. 175. One very important criticism of the investigating function is that the legislative function is being channeled into one of investigation. Thus, the secondary function of Congress is shadowing the primary function of making laws. Arthur Krock, *New York Times*, June 17, 1951, Sec. IV.

⁵⁶ Pereira, 73.

⁵⁷ *Ibid.*, 60.

⁵⁸ Arturo Lerena Acevedo, *Comisiones Parlamentarias de Investigación*, Montevideo, 1946, 16. "Such an exercise of power is judicial or quasi-judicial rather than legislative in character and, in deference to the principle of separation of powers, could not be sustained unless it is clearly implied in some power expressly granted to Congress." Mathews, 109.

⁵⁹ Acevedo, 29.

to be elicited from certain investigations must be auxiliary to the exercise of some power constitutionally granted to Congress," and two, "Congress must not violate those provisions designed to protect the individual against arbitrary power of the government."⁶⁰

Latin American constitutions that mention the power of the legislature to form congressional investigating committees fall into two groups, those which state that the legislature can demand information from the executive, if in the opinion of the legislature it must possess it,⁶¹ and those that request information from the executive providing a disclosure will not violate the public good.⁶² In El Salvador the President will give the assembly any information it requests but should the President deem it secret he will inform the assembly. However, "in the case in which the information may be necessary for determination of responsibility he may not refuse it for any reason or withhold documents after having been accused by the assembly." In Argentina (Art. 1, cl. 5) either chamber may "request" information from the President it may deem expedient and within its powers and the President can reply in writing, in person, or by sending a minister.⁶³ If those states in Latin America whose constitutions, like that of the United States,⁶⁴ do not mention the power of Congress to investigate, possess such power, then this power is either founded in the nature of legislative power or on a liberal reading of the constitution.⁶⁵

⁶⁰ Mathews, 109. The investigating committee has come in for considerable criticism even by members of Congress. See "Dangers in Congressional Immunity," by Senator Lester C. Hunt in the *New York Times* for June 24, 1951, and a "Code For Congressional Inquiries" by Representative Kenneth B. Keating in the same paper for April 5, 1953. See also the "ten commandments" of fair play by Senator Paul H. Douglas in the *Congressional Record* for July 16, 1953.

⁶¹ Costa Rica (Arts. 121, cl. 23 and 139, 1.11), Panama (Art. 144, cl. 6).

⁶² Nicaragua (Art. 215, cl. 5), Colombia (Art. 118, cl. 5), Bolivia (Art. 94, cl. 10).

⁶³ Article 64. In Argentina up to 1880 there were five congressional committees, from 1880 to 1890 one, 1890-1900 eight, 1900-1910 three, 1910-1920 twenty-one, 1920-1930 twenty-seven. A total between 1880 and 1930 of sixty-six. Pereira, 34. Quoting Barthelemy (*Essai Sur le Travail Parlementaire*, 247) that this power is founded in Article 67, cl. 7, of the 1853 Constitution (Article 68, cl. 7, of the Constitution of 1949) then Costa Pereira adds: "Great importance is attributed to North American precedents, since the Argentine Constitution was modelled on that of Philadelphia. Pereira, 61.

⁶⁴ Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, Uruguay, and Venezuela.

⁶⁵ "The power of supervision and control of administration is inherent in democratic assemblies as much in the parliamentary regime as the presidential." Pereira, 78.

It is when the legislature, presumably acting within its authority to legislate, asks or demands from the executive certain information and he refuses—under the theory that he is the head of an independent and coordinate branch—that a constitutional disagreement arises. Short of a constitutional amendment, in the United States it is difficult to see how Congress could force the President to divulge secrets believed by him pertinent strictly to the executive department.⁶⁶ In the famous case of *Marbury v. Madison*, John Marshall directed a *subpoena duces tecum* to President Thomas Jefferson requiring him to bring to the Court papers and he refused saying it would interfere with his duties. "This has formed a precedent ever since."⁶⁷ The principle, it appears, applies to heads of departments too.⁶⁸ In the event that Congress went ahead and held in contempt an executive officer or head of a department the President could throw the mantle of his own immunity from judicial process and from legislative inquiry around him. That the powers of each branch sometimes collide is obvious. "Thus far the adjustment of the two powers to one another has been effected by the give-and-take of the political process and presumably it must continue to be."⁶⁹

If Congress has annoyed the Executive with the creation of investigating committees to investigate or watch over activities of the executive branch, so too the national legislature has been fearful of presidential commissions. Such commissions have had a three-fold purpose in the United States. First, to supply the President with facts and advice in order to recommend legislation; secondly, to investigate the administration of the laws by the executive department; and thirdly, to act as an agent of the President in domestic and foreign affairs.⁷⁰ The big difference between the two types

⁶⁶ A ruling (April 30, 1941) of Attorney-General Robert Jackson that the Federal Bureau of Investigation investigative reports could be held from Congress in the public interest still stands; Corwin, *The Constitution*, 106.

⁶⁷ William Howard Taft, *The Presidency*, New York, 1916, 110.

⁶⁸ "In the many years that have rolled by since Jefferson's Presidency there have been hundreds of congressional investigations. But I know of no instance in which a head of a department has testified before a congressional committee in response to a subpoena, nor been held for contempt for refusal to testify. All appearances by these high officials seem to have been voluntary." Edward Corwin, *The President: Office and Powers*, New York, 1948, 139.

⁶⁹ *Ibid.*, 145.

⁷⁰ Carl Marcy, *Presidential Commissions*, Morningside Heights, King's Crown Press, 1945, 7-15. The constitutional authority for the establishment of presidential commissions is founded on: (1) the President's taking care that the laws be faithfully executed; (2) the relationship between

of commissions, though, is that the presidential commission has no compulsive power over persons and papers as the congressional committee has and that the presidential commission is not financially sustaining since only Congress can appropriate money.⁷¹

Intervention in local areas by Latin American presidents is the rule rather than the exception. Reasons that might be mentioned have been such as to put down a rebellion and to enforce the national laws, to reorganize a provincial government following a local revolution or impasse between the executive and the court, to "protect" these areas from "foreign attack" and, as a catch all, to alleviate and prevent conditions of anarchy resulting from various causes.⁷²

the President and executive heads, the cabinet; (3) the President as Commander-in-Chief; (4) the President's emergency powers; (5) the President as chief of foreign relations; and (6) those powers pursuant to general congressional grants.

⁷¹ Congress has compulsive investigatory power and the executive has not since they are inherently different. *McGrain v. Daugherty*, 273 U. S. 135. George Galloway in "The Investigative Function of the Congress," *The Investigating Powers of Congress*, comp. by Julia E. Johnsen, New York, 1951, 21-44, has summed up the case for and against such investigating committees of Congress. On the one hand they (1) warn executive officials to behave or be investigated, (2) substitute for administrative courts and protect the citizen from arbitrary official action, (3) are security against the misuse of opportunity, that is, using official positions for private purposes and (4) control the President without jeopardizing the republican form of government. On the other hand, such committees are (1) limited by their procedure and the process is blundering, crude, clumsy and tedious, (2) are impeded by the hostile attitude of the legislature toward the executive and their investigative fairness is impaired, (3) needlessly meddle in details of administration, (4) provide opportunity, at times, for the executive branch to escape penalty for wrong doing, and (5) have no one to watch them while they are supposed to be investigating.

The case for presidential commissions is outlined in March 12. The following eight essentials, although originally written with the British Royal Commission in mind, can be applied to the presidential commission. They (1) have prestige since they are created by royal warrant, (2) have a sense of public duty since the members serve free, (3) are created only when there is a public demand or need, (4) are of representative character since the main interests are served, (5) are created on carefully stated terms, (6) have wide powers of committee procedure and types of hearings and others, (7) can select a good chairman, and lastly (8) have the ability to get their recommendations adopted.

Recently, Clarence Manion was fired (he claims he quit) as Chairman of a twenty-five man commission set up under President Eisenhower. This Commission on Inter-Governmental Relations was set up to redefine the whole federal-state relationship with an attempt to determine lines of authority and to eliminate overlapping functions. Mr. Manion claimed that he resigned in response to the President because the latter would not give him a free hand in his own private speaking engagements—even though he uttered words opposed to those of the President—while the White House claimed Manion separated because he did not have enough time for the job. See the *New York Times* February 14, page 1, for the background story.

⁷² Rosendo A. Gómez, "Intervention in Argentina, 1860-1930," *The Evolution of Latin American Government*, ed. by Asher N. Christensen, 396.

This is not only true in those Latin American countries considered unitary but those considered federal as well.⁷³ Evidence exists that the provinces can often deal with local disturbances and settle their own troubles without presidential assistance, but all-powerful presidents must assert their authority at all times. In fact, it is not unknown for presidents to create local conditions that would justify intervention on constitutional grounds.⁷⁴ The Constitution of the United States guarantees to every state a republican form of government and promises that the United States will protect each of them against invasion or domestic violence.⁷⁵ Pursuant to these clauses Congress has passed much legislation giving the President certain powers "in cases of emergency," and "in time of war or similar emergency." The President appears to be the sole judge of the contingency.⁷⁶ Thus, in time of emergency the President bears the responsibility for preserving the existing order. Presidential leadership is dominant. "He alone can immediately command every source of information, make decisions and execute them without delay. . . . The legislature as the primary policy-making organ is not the appropriate branch to take immediate action."⁷⁷

There is a tendency on the part of Latin American executives to invoke intervention when congress is not in session.⁷⁸ At least as

⁷³ John W. White, *Argentina*, New York, 1942, 113. Austin F. Macdonald, *Government of the Argentine Republic*, New York, 1952, 192. The long conflict between the provinces and Buenos Aires for power is rather well known. The Constitution of 1853 lasted until 1949, surviving the federalization of Buenos Aires in 1880. The actions of the Peronista Party under one or other constitution are noted in the *New York Times*, September 28, 1952, Sec. 1, 19, and in numerous newspapers and periodicals over the past ten years. The Mexican presidents have repeatedly interfered and intervened in the affairs of the Mexican states, so much so that states rights were practically unknown until recently. See Goodspeed, 389, and J. Lloyd Mecham, "Mexican Federalism—Fact or Fiction?" in *The Evolution of Latin American Government*, New York, 1951, 364–367.

⁷⁴ Goodspeed, 389.

⁷⁵ Article 4, Section 4.

⁷⁶ Corwin, *The President*, 192; Bennett Milton Rich, *The Presidents and Civil Disorder*, The Brookings Institute, Washington, 1941, 190; Albert M. Sturm, "Emergencies and the Presidency," in Robert S. Rankin, ed., *The Presidency in Transition*, Gainesville, Florida, 1949, 121. The term "emergency" is not found in the Constitution. Authority to deal with it comes from provisions relating to the President, Congress, usages and practice.

⁷⁷ Sturm, *loc. cit.*, 122.

⁷⁸ Of the 101 interventions in Argentina from 1860 to 1930, 64 were presidentially initiated when congress was not in session, six of which were later sanctioned by a congress, and thirty-seven were initiated by the congress; Rosendo A. Gómez, "Intervention in Argentina," in Christensen, 394. Significantly, President Lincoln met the Civil War

far as Argentina is concerned one author believes that this is possible because there exists no permanent committee sitting when the Argentine Assembly adjourns.⁷⁹ Throughout Latin America it is not unknown that presidents completely control the governors and administrations of the local states. In Argentina governors are unseated and the President puts the province under an Interventor.⁸⁰ In Mexico, governors are the instruments of the President and are removed by him. The Senate's Permanent Committee decides between rival governors which is the rightful one, but since it is the arm of the President he, in effect, "really makes the final decisions."⁸¹

In Brazil the situation is much the same. Intervention has made the national government a virtual dictatorship. As soon as Deodoro quit and was succeeded by Vice-President Floriano Peixoto, the latter tried to unseat the local governors.⁸² President Arthur de Silva Bernades intervened in the state of Rio de Janeiro when, the election of 1922, its majority had gone to a favorite son.⁸³ The use Vargas made of Interventors is well known.⁸⁴ Such cases of presidential intervention can be many times multiplied throughout Latin America. It is a common pattern of executive truculence and disregard of local rights and the national constitution.⁸⁵

The assembly in Latin America has no power of its own to intervene in local areas or, if it does, it has largely abdicated it to the president. That is, the president's is the guiding hand of assembly action. As Tannenbaum rightly says of Mexico:

Under the Constitution the Senate has the duty of deciding upon the legality of a state government or of breaking off all federal relations with it. The Senate, therefore, ultimately decides who has been elected governor. But the Senate, like the governor of the states, is a creature of the President, and the Permanent Committee of the Senate . . . is hand-picked by the

emergency when Congress was out and delayed its reopening, meanwhile acting illegally.

⁷⁹ Christensen, 453.

⁸⁰ White, *Argentina*, 113.

⁸¹ Frank Tannenbaum, "Personal Government in Mexico," in Christensen, 420.

⁸² Lawrence F. Hill, ed., *Brazil*, University of California Press, Berkeley, 1947, 71.

⁸³ *Ibid.*, 100.

⁸⁴ Karl Loewenstein, *Brazil Under Vargas*, New York, 1942, 60. For a recent account of the first Vargas regime and his use of *interventors* see J. A. Comacho, *Brazil*, Royal Institute of International Affairs, London, 1952, 77.

⁸⁵ Mecham, "Mexican Federalism," in Christensen, 373.

President. So it is he who finally decides who has been elected governor of the state.⁸⁶

Although the United States Constitution guarantees every state a republican form of government, nowhere is it defined. State governments as existing at the time of the adoption of the constitution were considered as being essentially republican and were so when Congress welcomed them into the Union. Neither does the Constitution determine who applies the test of republicanism. It is considered, now, as belonging to the "political branches" of the government.⁸⁷ The United States Constitution lays down the method for presidential intervention to protect a state against invasion or domestic violence. This will come about on the application of the local legislature or, when it cannot be convened, of the Executive.⁸⁸ It should be mentioned, of course, that in time of "imminent danger as will not admit of delay" the state government can on its own engage in hostilities.⁸⁹ Thus, state authorities must first want the aid. This was the procedure in the Rhode Island case.⁹⁰ "If, however, the President feels that the state is capable of maintaining order and that it makes a request for national intervention because of timidity or for political reasons, he may refuse to send aid."⁹¹ On the other hand, the President can dispatch troops to the scene of the disorder, even over the protests of state authorities, as President Cleveland did in 1894.⁹² Unlike intervention in Latin America, though, which is frequent, needless and traditional, United States Presidents are reluctant to send troops into states and they give two reasons, generally, ". . . that the state has not yet demonstrated its inability to quell the disturbance" and "that the governors requisition

⁸⁶ Frank Tannenbaum, *Mexico: The Struggle For Peace and Bread*, New York, 1950, 86. For a discussion of the *Secretaría de Gobernación* which deals with internal relations, disputes between rival state legislatures, and the way the President controls governors, see Mecham, in Christensen, 365-366.

⁸⁷ *Luther v. Borden*, 7 Howard 1 (1849). For a compact discussion of this and other questions similarly involving presidential intervention to maintain a republican form of government, see Robert E. Cushman, *Leading Constitutional Decisions*, New York, 1950, 256-259.

⁸⁸ Article 4, Section 4.

⁸⁹ Article 1, Section 10.

⁹⁰ Cushman, 257.

⁹¹ Johnson, *American Government*, 71.

⁹² He did it to keep interstate commerce and the federal mails operating. "If it takes the entire army and navy of the United States," he said "to deliver a post card in Chicago, that card will be delivered." Allan Nevins, *Grover Cleveland: A Study in Courage*, New York, 1933, 628.

is incorrectly drawn."⁹³ The President's determination, at any rate, as to the needs of troops is exclusive and final. This would fall under the nature of a discretionary act and he cannot be forced by the courts to perform it.⁹⁴

The President of the United States has no authority as such over unconstitutional state law. Under the Constitution of the United States such is within the competence of the federal courts.⁹⁵ But if the Mexican President believes that a state law is unconstitutional he can have it removed from the statute books by a personal directive or through an act of the federal Senate.⁹⁶ Under Article 40 he has to defend a democratic, representative republic and state popular sovereignty; but since these are not defined by the Constitution, Mexican Presidents have taken it upon themselves to define and interpret these terms, judging whether certain laws and institutions meet their personally determined standards.⁹⁷ Two methods of intervention are employed, one, having military zone commanders force state legislatures to rescind legislation and see that republican institutions are upheld and, two, the federal Senate can declare a state's constitutional power suspended. Under Article 122 a state governor can request presidential intervention but even without such an invitation, the President could intervene and even replace the governor.⁹⁸ Not only does the President in Latin America intervene in local areas, ignoring one protest after another, but if resistance to him is stiff enough he proclaims a state of siege. Ostensibly it is to preserve order but too frequently it means a lust for unconfined power. In the case of *In re Neagle* the Supreme Court of the United States held that although Neagle's assignment, to protect Supreme Court Justice Field, on circuit after the judge had been threatened with physical harm, was not traceable to any statutory provision, the President's job was to see that the laws were faithfully executed.⁹⁹ In the case of *In re Debs*, the Supreme Court agreed there was no statutory basis

⁹³ Bennett Milton Rich, *The Presidents and Civil Disorder*, The Brookings Institute, Washington, 1941, 191-192.

⁹⁴ Mathews, 234.

⁹⁵ Article 3, Section 2.

⁹⁶ Goodspeed, 389.

⁹⁷ Mecham, "Mexican Federalism, in Christensen, 365.

⁹⁸ Goodspeed, 390. Tannenbaum, *Mexico*, 89.

⁹⁹ 135 U. S. 67. "In sustaining Neagle's release the Court held that the President in the exercise of the duty imposed upon him to see that the laws are faithfully executed may without special statutory authority appoint an officer to protect the life of a federal judge." Cushman, 24.

for the injunction used but still the United States Government could protect its property.¹⁰⁰ Thus, along with the Neagle case this seems to mean that the President can keep the peace of the United States even when he appears to intervene in local areas.

In the United States, the record of presidential intervention in state matters expands or contracts according to the political theory of the President in office. Strong presidents have not hesitated in using the national power to intervene while weak presidents were most reluctant.¹⁰¹ According to Corwin, in no fewer than twenty-five major industrial disputes, sometimes within and sometimes outside the law, Presidents have acted.¹⁰²

Most Latin American constitutions require congressional permission before the president leaves the state on public business.¹⁰³ In Paraguay and Guatemala the Constitutions say nothing about presidential absence although disability, apparently, can be "temporary."¹⁰⁴ In Panama (Art. 146) the Constitution merely notes that the President "may not leave" the territory "while he is engaged in the exercise of his functions." The Constitutions of El Salvador and Argentina permit the President to leave the country without permission but only "in cases of grave necessity of public service," and

¹⁰⁰ 158 U. S. 599-600.

¹⁰¹ Theodore Roosevelt, *An Autobiography*, New York, 1919, 389, thought that the President had the right and the duty to do everything "that the needs of the nation demanded unless such action was forbidden by the Constitution or by the laws. . . . I did not usurp power, but I did greatly broaden the use of executive power." Such broadly expressed broad powers contrast with Taft's expression: "The president can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied or included within such express grant as proper and necessary;" William H. Taft, *Our Chief Magistrate and His Powers*, New York, 1916, 139-140. Taft's suspicion of the residual executive power theory of T. Roosevelt is borne out by the Supreme Court's decision in the steel seizure case, *Youngstown Sheet and Tube Company v. Charles Sawyer*, 96 L. Ed., 817. (1952).

¹⁰² Corwin, *The President*, 191; the occasions are listed on pages 453-454.

¹⁰³ Argentina (Art. 83, cl. 21), Bolivia (Art. 93), Brazil (Art. 85), Chile (Art. 67), Colombia (Art. 128), Costa Rica (Art. 139, cl. 5), Ecuador (Arts. 86 and 98, cl. 6), El Salvador (Art. 92), Mexico (Art. 88), Nicaragua (Art. 209), Peru (Art. 152), Uruguay (Art. 158) and Venezuela (Art. 197). An historical antecedent, perhaps of this practice was the Spanish *residencia*, a judicial review of official conduct at the termination of a term. Every high government official, after leaving office, would be investigated by a *tribunal de residencia*, and during this public accountability had to remain in the territory; C. H. Haring, *The Spanish Empire in America*, New York, 1947, 149.

¹⁰⁴ Paraguay (Art. 58) and Guatemala (Art. 135). The Honduras Constitution (Art. 119) also speaks of "temporary disability" which does not seem to mean "leaving the nation" since the article goes on to name the succession when the "temporary disability" becomes "permanent."

except when the necessities of war compel him to do so.¹⁰⁵ The President must seek the permission of the Council of State, in Ecuador (Art. 86) if the Congress is not in session. This is forthcoming without question, of course, since the President controls the cabinet. In several states¹⁰⁶ the President cannot leave the country until the expiration of one year or less following his term of office or "if there are pending court proceedings against him for official offences." One state, Ecuador, prohibits the President from being absent from the capital for more than thirty consecutive days.¹⁰⁷

The Argentine provision restricting the President to the country is, according to one author, founded on the Constitution of 1848.¹⁰⁸ According to another, the Constitutionals of 1853 were afraid that President Urquiza would change the official seat of the government. Thus, "its inclusion arose through special circumstances."¹⁰⁹ If that be true it is difficult to understand its inclusion in the 1949 Constitution. Its incorporation in the Colombia Constitution results from the flight of President Reyes in 1909. Tascón says this is a useless arrangement since a president with any obstinacy will leave the country without fear of sanctioning the idea that he has abandoned his post.¹¹⁰ In the event that a president does leave the state, as in Argentina, when the Congress is in recess, he should get permission from it at the next regular session.¹¹¹ In practice, however, presidents have little difficulty in leaving the country on official business.¹¹² In Argentina and elsewhere no doubt this restriction is considered a dead letter.¹¹³

¹⁰⁵ El Salvador (Art. 92) and Argentina (Art. 83, cl. 1). President Juan D. Perón called a special Congress to vote him permission to visit Chile; *Time*, February 9, 1953, 37.

¹⁰⁶ Colombia (Art. 128) and Costa Rica (Art. 139, cl. 5) for one year; Venezuela (Art. 197) for six months.

¹⁰⁷ Article 98, cl. 6. In the Argentine Constitution of 1853 the President could not leave the capital without permission of Congress (Art. 68, cl. 21), but in the Constitution of 1949 he may leave the capital but not the country (Art. 83, cl. 21).

¹⁰⁸ Antokoletz, II, 659.

¹⁰⁹ Navaro and Hroneich, 405.

¹¹⁰ Tulio Enrique Tascón, *Derecho Constitucional Colombiano*, Bogotá, 1944, 255.

¹¹¹ Rodolfo Rivarola, *Enciclopedia de la Constitución Argentina*, Buenos Aires, 1939, 58.

¹¹² Francisco de Paula Pérez, *Derecho Constitucional Colombiano*, Bogotá, 1942, 330. For reasons of illness President Sáenz Peña left Argentina. In 1943 the Mexican Congress permitted President Avila Camacho to visit the United States; Goodspeed, 374. President Alessandri was authorized to leave Chile for six months; Luis Goldames, *History of Chile*, Chapel Hill, 1941, 375. Likewise President Galo Plaza Lasso of Ecuador visited the United States, Mexico, and Venezuela in June, 1951;

Constitutionally there is nothing to prevent the President of the United States from leaving the country for any purpose. For many years, however, the prevailing belief was that perhaps he could not leave United States Territory without permission of Congress. Congress criticized Jefferson and Grant for traveling too much. Jefferson was criticized for going to Monticello yet President Franklin Roosevelt traveled hundreds of times to Hyde Park without criticism. Freedom of travel is now a welcome thing to a President imprisoned in a grueling schedule of official routine. Criticism of Presidents traveling was "fed for years on the misapprehension that the American chief executive could not leave the country while in office, and that official acts performed outside Washington were not legal."¹¹⁴ President Wilson broke the rule by visiting France and President Franklin Roosevelt buried it during World War II.¹¹⁵ It was pointed out that Washington refused to enter the Commonwealth of Rhode Island until it had joined the Union, and President William H. Taft when he visited the Canal Zone in 1910 remained on an American war vessel. In 1876 Congress by resolution demanded that President Grant perform his legal functions at the seat of the government. He was quick to point out to a Democratic Congress that Jefferson, a Democrat, had the greatest record of absenteeism of 796 days or more than one-fourth of his eight years in the White House.¹¹⁶ Thus, the real question involved today is time and money.¹¹⁷

Several states provide for a succession of presidential power if the president is absent from the country. In El Salvador (Art. 92) when the President leaves the national territory be it with permission of the Congress or when the necessities of war compel him, he shall, nevertheless, "deposit the supreme power with the person designated by law." In the temporary absence of the Mexican President the Congress or, if it is not in session, the permanent committee,

New York Times, June 20, and July 9, 1951. These are some recent examples of a long list.

¹¹³ Macdonald, *Government of the Argentine Republic*, 208. Antokoletz, II, 615, objects to the idea of running the government in *absencia*, and argues, (*ibid.*, 660), that official acts should be realized in the federal territory.

¹¹⁴ Merriman Smith, *A President is Many Men*, New York, 1948, 232.

¹¹⁵ It is idle to speculate upon the thousands of miles travelled by the more recent presidents of the United States, whose mileage has mounted from the thousands to the hundreds of thousands. The present has been dubbed the "travelingest administration," by Roscoe Drummond in the *Chicago Sun-Times*, December 18, 1953, 32. Miles covered and time consumed in travel are two distinct gauges of absence from Washington.

¹¹⁶ Corwin, *The President*, 67.

¹¹⁷ Merriman Smith, 234.

shall designate an interim President. If the absence exceeds thirty days and the Congress is not in session the permanent committee shall call an extraordinary session of Congress to decide on a leave of absence and name an interim President (Art. 85). During the absence of the President of the United States from the country neither the Vice-President nor any other official substitutes for him. There is an unwritten rule, though, providing that the Vice-President hover in the neighborhood of the capital when the President is on an extended tour. Even this rule was violated in 1935 when the President and Vice-President were absent from the country.¹¹⁸

JOSEPH MENEZ

Loyola University
Chicago

¹¹⁸ Corwin, *The President*, 403. For a discussion of the exercise of power by a Lieutenant Governor when the Governor has left his State, see Austin F. Macdonald, *American State Government and Administration*, 4th edition, New York, 1950, 240.

Mexico: President and Constitution

Presidential dictatorship in varying forms has long been a characteristic feature of government throughout Latin America. Despite the frequent constitutional provision for a strict separation of powers between the legislative, executive, and judicial branches of government, political power invariably is located positively with the chief executive. Such a situation, at times, results from an alteration or even an outright violation of a normal grant of constitutional power. Frequently, the section in a constitution devoted to presidential powers was borrowed from the governmental practice of more politically mature countries, without taking into consideration the fact that most democratic procedures of government demand both an alert and politically conscious electorate and a group of responsible political leaders, conditioned by a long period of governmental tradition, who are intent upon following constitutional norms. The *constituyentes* of Latin America, in their zeal for producing a modern constitution, fail to recognize such political truths and construct a document so demanding of leaders and so beyond the comprehension of the great mass of citizens that constitutional provisions are violated both by design and through ignorance. This is particularly true of those provisions of a constitution which enumerate the powers and responsibilities of the chief executive.

Inasmuch as the constitutional powers of the president are so important both in theory and practice, there is value in examining the manner in which they were constructed and noting whatever warnings were raised concerning their possible abuse and the extent to which such warnings were justified. The Mexican Constitution of 1917 in many respects is a typical example of the failure of constitution-makers to assess basic political realities properly when drafting the powers and responsibilities of the chief executive.

The office of president in Mexico is the government. Since independence, Mexico has had a presidential system of government and, since 1857, a federal system. Yet the chief executive in Mexico is more than the focal point of a presidential system. Constitutionally and otherwise, his control over the other branches of government, as well as the social and economic life of the country, is difficult to match in any other present day republican system of government outside Latin America.

The first Mexican Constitution, that of 1824, was modeled along the lines of the Constitution of the United States. From 1824 until the present, Mexico has experimented with various governmental forms. But throughout this period of constitutional development, successive governments have operated under a constitutional framework similar to that established in 1824. The last two complete constitutional revisions—those of 1857 and 1917—created governmental systems, the liberalism and democracy of which cannot be excelled by other American or European constitutions created during corresponding eras.

Yet, at no period, have political realities been in keeping with the legal precepts of the basic laws, due principally to presidential conduct in office and abuse of constitutional prerogatives. During the course of the first fifty-five years of independence, the government of Mexico saw a change of leadership on an average of once a year. Such frequent changes invariably were the result of bloodshed and revolution, and rarely were in accord with constitutional provisions. During the succeeding thirty years of Porfirio Díaz, the country enjoyed comparative peace and stability. Yet the government was neither democratic nor constitutional.

The ten years following the abdication of Díaz were filled with revolution, suffering, and despair. Three presidents and six temporary or provisional presidents were in office. Two of the presidents were assassinated.

Venustiano Carranza issued a decree on September 14, 1916, which called for election to a constituent congress.¹ A special electoral law was passed and elections took place five days later.² Carranza had cited the need for constitutional reform,³ and when the Congress finally assembled in December, he elaborated these reasons in his famous *Proyecto de Reformas*.⁴

Carranza stated that the first reform he desired in remaking the executive branch of government was that of eliminating the legislative supremacy which was embodied in the Constitution of 1857.⁵ He observed that many of the ordinary presidential powers had been

¹ Felix F. Palavicini, *Mi Vida Revolucionaria*, Mexico, 1937, 241; Alfonso Taracena, *Mi Vida en el Vertigo de la Revolución*, Mexico, 1936, 393.

² M. Aguirre Berlanga, *Revolución y Reform. Genesis legal de la Revolución Constitucionalista*, Mexico, 1918, 107; text of election law, *ibid.*, 113-137.

³ Decree outlining need for constitutional reform in *ibid.*, 95-106.

⁴ Text in Felix F. Palavicini, *Historia de la Constitución de 1917*. Two vols., Mexico, 1938, 163-200; hereafter cited as Palavicini, *Historia*.

⁵ Palavicini, *Historia* I, 158-163, include Carranza's explanatory notes on the *Proyecto* before he presented it to the convention.

hedged with restrictions, allowing little discretion in administration. During the serious crisis in the decade following the promulgation of this constitution, these restrictions virtually forced such a president as Benito Juárez to go beyond the law in an attempt to protect the security of the nation. One of the worst features of the 1857 document, Carranza believed, was the system of indirectly electing the president through an electoral college dominated by the Congress.

Carranza then disposed of the idea of adopting a parliamentary system in these words:

What is gained from the adoption of a parliamentary government? What the parliamentarians want is nothing less than depriving the president of his governing powers so that Congress can use them through a combination of its members, called a cabinet. In other words, parliamentarism tries to secure the disappearance of the person of the president and replace him with a collective figure; and where then would be the strength of the government? It would be in the parliament and would always be clumsy and afraid of being censored at any moment. Parliamentarism is understandable in England and in Spain where it has signified a victory over the old absolute power of kings; it is understandable in France, because that nation, in spite of its republican form of government, is always influenced by her background.

It would be unwise to start experimenting with a weak government such as ours when it is so easy to strengthen and consolidate the system of a personal president which the constitution makers of 1857 left us.

In addition, the parliamentary system necessarily presupposes two or more political parties, perfectly organized and with a considerable number of members in each. We do not possess this necessary requirement and the adoption of parliamentarism would only bring chaos.

I have heard that the parliamentary system has not produced the best results in the few Latin-American states in which it has been adopted. But for me the clearest proof that parliamentarism isn't a system from which many advantages can be expected is that in the United States, where they have established in their democratic institutions the same system of the personal president as we have had, they have not considered parliamentarism, which means that they do not grant it any practical value whatsoever.⁶

Carranza proposed the elimination of the office of vice-president by stating:

The vice-president has been customary in other countries and has rendered good service. Among us, by a series of sad circumstances, it has had a bad history. Instead of securing the presidential succession in a pacific way in unexpected cases, it did not do anything but weaken the government. In fact, when this institution has been in existence, the vice-president usually was a man lacking scruples, though possessing great am-

⁶ Palavicini, *Historia* I, 158-159.

bitious. The office too often became the center of opposition to the president. . . . In the last days of Díaz, the vice-presidency was created by the *científicos* as a means to maintain themselves in power, in the event of the death of Díaz.

The system of filling vacancies in the presidency with secretaries of state, calling them to office according to the number which is given them by law, only gave the president the absolute power of designating his successor.

The system which I propose does not have any of these obstacles, because the person filling the presidential vacancy will have a truly popular origin⁷

After making these parliamentary observations, Carranza sent his *Proyecto* of constitutional reform to the Congress. The sections dealing with the *Poder Ejecutivo* were studied by the Second Commission of the Congress and then, after some alterations had been made, the Commission presented its report to the Congress at large for discussion and adoption.

Deputy Manchoro Narváez, chairman of the Second Commission, presented the Commission's report to the Congress as follows:

For methods' sake, the subject of the *Poder Ejecutivo* can be divided into groups of articles which serve to establish this power; first, the election of the president, his qualifications and the taking of the position; second, the system of filling vacancies in the presidential office; third, the powers of the executive, and fourth, the establishment of auxiliary organs of the presidency.

The necessity of unity of action in the accomplishment of the functions of executive power and the execution of the acts of government has imposed in most states an individual unity in the executive office, be the government a monarchy or a republic. The oligarchies themselves have gotten a certain unity through the selection of a single officer who has assumed the more direct attributes of executive power.

In Mexico, collectivity in executive power has presented the same vices that existed in other countries and our thinking has concluded that a single executive is the most effective.

The qualifications that this officer must have must be based on a firm heritage of Mexican background and traditions. There should be the incarnation of patriotic sentiments in the president, as he is the active force of government and the highest representative of national dignity. For these reasons, the president must be Mexican born, the son of Mexican born parents and must have lived in the country at least a year previous to the day of election.

The constitutional period of office is to be left at four years, thereby following the traditions of '57. To fulfill the ideals of the revolution, there is incorporated the absolute prohibition of re-election.

⁷ Palavicini, *Historia* I, 160.

The system of filling a temporary or permanent vacancy in the presidential office has been a matter of debate during the last twelve years. It is a waste of time to discuss the small value of an office of vice-president, elected at the same time as the president. Such an office has had serious consequences in our history. There is also no need to seek any merits in the system of providing for a substitute president with a person chosen for another office, as existed by having the president of the senate or the president of the supreme court succeed to the presidency when a vacancy occurred. Also, the system of having the secretaries of state substitute when a vacancy occurs, presents the inconvenience of having the president, when choosing his secretaries, establish their order of succession, which seems hardly democratic. Thus, there appears to be no more effective way of providing for a presidential vacancy than through a new election by Congress or in its absence, by the Permanent Commission. For both cases, a two-thirds majority is needed.

The Commission felt it necessary to add to the project of the First Chief that the selection of a substitute president could be made by the Permanent Commission as well as Congress, so that the public powers would be formed as soon as possible. The Commission believed, however, that the Permanent Commission should only select a provisional president. This modification follows from the consideration that it is possible that a president selected by the Permanent Commission might serve for eight months or even a full term, and such a president would have been selected by only ten or twelve men.⁸

The Chairman pointed out further that the powers and obligations of the president established by the *Projecto* and approved by the Second Commission were in the main the same as those of the Constitution of 1857. Narváez concluded his presentation of the report by outlining the political and administrative agencies necessary for carrying out the executive power.

Chapter IV of the Commission's report made up the *Poder Ejecutivo* and included Articles 80-94. Articles 80, 81, and 82 were accepted without debate. Article 80 placed the "supreme executive power" in a single individual, while Article 81 provided for direct election of the president. The presidential qualifications were established in Article 82. The term of office was set at four years by Article 83 and the president was to take up his duties on the first day of December. The question of whether there should be the possibility of re-election was discussed rather fully. Deputy Cravioto questioned the wording of the Commission's report on Article 83, desiring to know what was meant by the phrase, "never be re-elected."⁹ Deputy Narváez replied that after a president had

⁸ *Diario de los Debates del Congreso Constituyente*, 2 vols, Mexico, 1922, I, 334-335; hereafter cited as *Diario de los Debates*.

⁹ Discussion of Article 83 in *Diario de los Debates*, II, 386-388.

served one term, he was prohibited from ever becoming president again; that this provision was to eliminate once and for all the Díaz type of president. Deputies Espinosa and Esteban Calderón stated that the principle of no re-election was undemocratic, that it deprived a good man of the right to serve his country. Deputy Escobar explained that it was best to leave the word "never" in the article as a safeguard but that the article could be amended if the country felt that a good president should be given opportunity for another term. The provision prohibiting re-election was then adopted by the Congress.

Article 84 of the Commission's report caused considerable discussion.¹⁰ It involved the whole question of how a vacancy in the presidential office was to be filled. The proposed article was presented to the Congress in the following form:

In the case of the permanent absence of the President of the Republic if said absence should occur when Congress is in session, the Congress shall form itself into an electoral college and with at least two-thirds of its members present, will nominate by secret ballot and by an absolute majority of votes the citizen who will substitute during the time of the presidential vacancy in order to fulfill and complete his term.

If the absence in the presidency occurs when Congress is not in session, the Permanent Commission will nominate a president *ad interim* who will be the executive until the Congress meets in the next period of its session and a corresponding election is held, which may select the person chosen as president *ad interim*.¹¹

Deputy Cespedes began the debate by observing that it was possible for a president to die soon after taking over his new office. In such a case, the substitute president would have nearly four years to serve. Cespedes felt rather strongly that new national elections should be held in such an eventuality.

Deputy Pérez echoed these sentiments and spoke against the granting to Congress or the Permanent Commission the power to elect a president. Such a system, he said, would create an indirect election of a president and should not be allowed unless the presidential vacancy occurred in the last two years of the term.

Deputy Truchuelo developed these ideas even further when he said:

We are trying to make a strong political power to govern the nation. If we give the power of nominating a president to Congress, we grant to Congress the chance to believe itself strong enough to intrigue against the

¹⁰ *Ibid.*, 389-397.

¹¹ Palavicini, *Historia* I, 165.

executive power. A good example of this occurred in the case of Madero: Congress was the cause of his downfall. . . . The people will not [under this proposal] directly elect a president. Federalism would be destroyed and replaced by centralism by such a system of indirect election. There would be the constant threat to the executive by Congress; Congress would be looking for some pretext to cause his resignation and nominate someone of its own choice. Our attempts to build a strong executive would be ruined by giving Congress a chance to undermine him. We must remember that not all Congresses would be in support of a president.

We must guarantee the security of the president against the Congress. To do this, we must only allow Congress the power of selecting a temporary president to serve but a few days. It would be best to provide that the legislature call new elections whenever there is more than a year left of a presidential term. We should never have one power depending on another.¹²

It was pointed out by Deputy Cabrera that if the Commission's recommendation were accepted, it would conflict with Article 81, the latter calling for a direct election of the president. Cabrera believed that if Congress chose a substitute president to fill out a period longer than two years, a new Chamber of Deputies would have been elected which might not be in sympathy with the substitute. This would create a serious impasse, said Cabrera, and might lead to a revolt by either the president or Congress.

Cabrera and the other critics were answered by Deputy Medina, who defended the proposed article as follows:

Why is Deputy Cabrera worried if the president has some opposition in parliament? Opposition is an example of good government and it is the reason why parliamentarism has so many followers in Political Science. Parliamentarism is formed by both those in power and those in the opposition, both having freedom of action. Thus, I am not afraid of what Cabrera fears.

The minorities in democratic states have rights as good as those of the majority. In England and in France, minorities in opposition serve as brakes against the majority, causing compromises and often, better government.

There is nothing wrong with Congress filling a vacancy in the presidential office. The people haven't given up their sovereignty. It can't be taken away from them if they give Congress the power to make a constitution. If Congress decides that it is best for the state to have a provisional president chosen by Congress, the democratic principle has not been invalidated.

It is true that this would create an indirect election, but an indirect election is not un-democratic. Anyway, four years in the life of a nation is nothing. . . . The legislative abuses of the past have now been eliminated and a strong executive created who can cope with Congress. Finally, the

¹² *Diario de los Debates*, II, 391-392.

frequent calling of elections upsets the people and destroys their normal life, leading to an unnatural state and possible revolutions.¹³

A vote was called and the article as proposed by the Commission was defeated by 83 votes to 59. After some further discussion, many of the ideas suggested by the deputies cited above were adopted and the completed article was accepted in the following form:

In the event of the permanent disability of the President of the Republic, if this shall occur in the first two years of the respective term, the Congress, if in session, shall forthwith act as an electoral college, and with the attendance of at least two-thirds of its total membership shall choose a President by secret ballot and by a majority vote; and the same Congress shall issue the call for Presidential elections and shall endeavor to have the date set for this event as far as possible coincide with the date of the next election of Representatives and Senators to Congress.

Should the disability of the president occur while Congress is in recess, the Permanent Committee shall forthwith designate a president *ad interim* who shall call Congress together in extraordinary session, in order that it may in turn issue the call for Presidential elections in the manner provided in the foregoing paragraph.

Should the disability of the president occur in the last two years of the respective term, the Congress, if in session, shall choose the substitute to conclude the period of the presidential term; if Congress shall not be in session the Permanent Committee shall choose a President *ad interim* and shall summon Congress in extraordinary session, in order that it may act as an electoral college and proceed to the election of the substitute president.

The president *ad interim* may be chosen by Congress as substitute President.

The citizen designated as President *ad interim* for the purpose of calling elections, in the event of the disability of the President within the first two years of the respective term, shall not be chosen in the elections held to fill such vacancy and for which he was designated.¹⁴

Articles 85, 86, 87, and 88 were accepted without debate. These articles included the following provisions: the president must terminate his period of office at the end of four years, even if the new president does not immediately take office, allowing Congress to provide an *ad interim* president as called for in Article 84; the president could not resign from office except for "grave cause" and his

¹³ *Ibid.*, 394-396.

¹⁴ H. N. Branch, "The Mexican Constitution of 1917 compared with the Constitution of 1857," *The Annals of the American Academy of Political and Social Science* (Supplement), May, 1917, 65-66. These articles were amended in 1933 in order to conform to another amendment which had extended the presidential term of office from four to six years. *Diario Oficial*, April 29, 1933.

resignation must be approved by Congress; the president was prohibited from leaving the country unless he secured Congressional approval.

Article 89 set forth the powers and duties of the president. He was to "promulgate and execute" the laws passed by Congress and to see that they were observed; he could appoint and "remove at will" all the secretaries of state, the attorney-general, governor of the Federal District, and governors of Federal Territories. Senate approval was necessary for the presidential appointment of all ministers, diplomatic agents, consuls general, colonels and other high officers of the army, navy and treasury. Though the president could "dispose of the permanent land and sea forces for the domestic safety and foreign defense" of the country, a Congressional resolution was necessary before he could declare war. Also subject to Congressional approval was the granting of letters of marque and the conduct of diplomatic negotiations and the making of treaties. Ministers and foreign envoys were to be received by the president and he could grant pardons for all offenses committed within the Federal District.

With one exception all sections of Article 89 were approved without debate. There are some discussion of section XI, which gave the president power to call Congress or either of the Houses in extraordinary session "whenever in his judgment it may be advisable."¹⁵ Deputy Cespedes opened the debate by demanding to know what would happen if Congress were not in session and the president violated the constitution. He wanted to know how Congress could be called into session in order to censure such a presidential act. Deputy López agreed with Cespedes, observing that by giving the president the power to call extraordinary sessions of Congress, Congress would be subjugated to executive dictatorship. The possibility that the president might murder someone or commit high treason when Congress was not in session was suggested by Deputy Canete.

These queries were answered in part by Deputy Macias. He emphasized the great need for a strong executive and the elimination of legislative supremacy. He urged the passage of the proposed article, citing the need for such a provision during Madero's administration. He recalled that Madero desperately needed to secure a loan but could not get the Permanent Commission to call an extraordinary session of Congress to approve it.

¹⁵ *Diario de los Debates*, II, 278-281, 340.

Deputy Narváez ended the discussion and secured favorable passage of the article after presenting this argument:

All that the opposition has brought up is the question of politics between the executive and the legislature. One of the most pressing problems of the constitution of 1857 was legislative absolutism. This led to the dictatorships of Juárez and Díaz. If we give the Permanent Commission the power to call extraordinary sessions of Congress, Congress would probably be in almost constant session. But if you want the executive to have freedom of action, you cannot let Congress stay in session all the time. Congress could not spend all its time passing laws, so it might very well invade the executive sphere for lack of something else to do.

The granting of this power to the Permanent Commission would be particularly dangerous if the president had a hostile Congress. He would be defenseless, and not desiring to be dominated, he could pursue no other course than to corrupt Congress in order to get his way.

Some have asked, what could Congress do to punish the president if he overstepped his bounds when Congress was not in session? It is not too common for a president to violate the constitution. But if he did, the Permanent Commission could quietly gather all the facts and be able to present a good case to Congress when it met in regular session. The commission probably would not do this if it hurriedly called a special Congressional session.¹⁶

There was some general discussion concerning related aspects of Articles 90-93.¹⁷ These dealt with the secretaries of state and the questions of their nomination and responsibilities. There was considerable debate as to whether the secretaries should be specifically enumerated in the constitution and what the responsibilities of the secretaries should be. The whole question of parliamentarism was raised again and discussed at some length.

Deputy Monzón wanted specifically to enumerate the executive assistants and the duties of each secretary, while Deputy Rodríguez demanded the creation of a secretary of public health. Neither of these suggestions was accepted and the discussion led to the desirability of eliminating federal control of education. Deputies Medina, Rivera, and Palavicini pointed out the past evils of the education system, emphasizing the important role politics had played in matters of public instruction. The days of Díaz were recalled, with vivid examples of political manipulation of teachers and education to further the aims of the *Científicos* and to propagandize the whole Díaz regime.

¹⁶ *Ibid.*, 279-280.

¹⁷ *Ibid.*, 401-408, 411-435, 550.

Deputy Jara wanted to create a secretary of labor and a secretary of the navy, and also to have the duties and powers of the *Secretaría de Gobernación* strictly limited. This last suggestion was imperative, he believed, because this secretariat had been a center of graft and intrigue, particularly during the governments of Díaz and Madero, and had been responsible for the increasing trend toward centralization in government.

Again, the sentiment of the Congress was not in favor of specifically enumerating secretariats and powers, and it was decided to leave the whole matter to the next Congress as a piece of ordinary legislation.

During the discussion on the nomination and removal of secretaries, Deputy Majárrez tried to reintroduce parliamentarism by making the secretaries responsible to Congress. Deputy Pastrana Jaines immediately took issue with such a proposal, as follows:

We will never be able to have parliamentary government in Mexico. The legislature has now been tied down and can never be an aggressive one. We must not strengthen it and split the internal harmony of the executive branch of government by having presidential appointments responsible to someone else. . . . It might be best to have the secretaries nominated by Congress and made responsible for their acts but we have not had the background, the experience and the necessary political parties to make such a system work.¹⁸

Deputies Herrera, Martínez de Escobar, Ugarte and Pintado Sánchez agreed with Pastrana Jaines, pointing out that the adoption of some of these ideas of parliamentarism would only create a "half-breed" organization and would not only hinder the freedom of action of the president, but would wreck the entire presidential system which the Congress was trying to create.

Despite the rather extensive and detailed discussion, the Commission's report was accepted substantially as presented. Article 90 permitted the Congress to establish as many secretariats and departments as it deemed necessary, while Article 91 required Mexican citizenship by birth and a minimum age of thirty years for all secretaries. According to Article 92, all regulations, decrees, and orders of the president were to be signed by the secretary concerned. All such regulations that pertained to the Federal District were to be sent directly by the president to the governor of the Federal District. By Article 93 each secretary was required to make an annual report to

¹⁸ *Ibid.*, 401-402.

Congress on the state of his secretariat. Article 73, section XVI, 1, created a public health service which was to "depend directly upon the president of the Republic, without the intervention of any executive department, and its general provisions shall be binding throughout the Republic."

The Commission's report on Article 96 called for presidential advice in the selection of the judiciary by Congress. Deputies Escobar and Herrera argued strongly against permitting the president to intervene in judicial matters of any nature.¹⁹ Escobar observed that up to the present the judiciary had never been independent and had always been subject to political pressure from the president and the proposal of the Commission would continue to permit such executive interference. These arguments were persuasive, and in its final form Article 96 contained no mention of presidential concurrence in judicial appointments.²⁰

No opposition interfered with the adoption of Article 108, which made the executive secretaries and the attorney general liable "for all common offenses committed during their term of office, as well as for all official offenses or acts of commission or omission which they may incur in the discharge of their duties." The president was made liable for impeachment "during his term of office for high treason and common offenses of a serious character."

The relationship between the legislative and executive branches of government were specifically enumerated and certified by the Convention with little discussion. Article 67 described in detail the method by which the president could call extraordinary sessions of Congress; Article 68 allowed the president to decide in the case of disagreement between the houses of Congress just when, where, and in what manner each house was to meet. In Article 69, the president was required to attend the opening of the annual session of Congress and report in writing on the state of the nation. If both Houses of Congress could not agree on the date of adjournment, the executive, according to Article 66, was to make the final decision. When an extraordinary session had been called, the president was required to attend the opening session and give his reasons for calling it. The right to initiate legislation was given to the president by Article 71, while Article 72 granted veto power to the executive.

¹⁹ *Ibid.*, 302-305.

²⁰ However, in 1928, this article was amended and the president given the power to nominate the members of the Supreme Court as originally proposed by Carranza.

His veto could be overridden by a two-thirds majority of both Houses of Congress. The same article prohibited the president from interfering in the resolutions of Congress when it was sitting as an electoral body or a grand jury. Article 73 provided for an annual Congressional audit of all accounts submitted by the president. Article 76 gave the president the power of presenting three names to the Senate, when that body had declared the disappearance of the constitutional powers of a state and was proceeding to select a provisional governor for the state. The selection was to come from the president's *terna* (three names).

Article 27 interjected the president directly into the economic life of the nation. Section IV made it mandatory for commercial stock companies in developing "manufacturing, mining, petroleum or other industries, excepting only agricultural industries" to hold or administer only those areas which have been determined or approved by the "executive of the union or of the respective state." Section VII, part (f) of the same article gave the president the power to declare null and void "all contracts and concessions made by former governments from and after the year 1876 which shall have resulted in the monopoly of lands, waters and natural resources of the nation by a single individual or corporation—which seriously prejudice the public interest."

Article 33 presented the president with an additional duty and power, as follows:

... the executive shall have the exclusive right to expel from the Republic forthwith, and without judicial process, any foreigner whose presence he may deem inexpedient.

There was no debate or discussion on Article 29, which gave the president power to suspend constitutional guarantees in order to meet "cases of invasion, grave disturbances of the public peace or any other emergency which may place society in grave danger or conflict." Such a suspension must have the concurrent approval of "the Council of Ministers" and Congress. This was the only reference to the cabinet throughout the constitution, and it recognized the "Council of Ministers" as an actual entity. Congress could also grant the executive whatever powers it felt were necessary to meet a situation.

Article 49, in establishing a separation of governmental powers, was specifically attached to Article 29 by providing that "two or more

of these powers shall never be united in one person or corporation, nor shall the legislative power be vested in one individual except in the case of extraordinary powers granted to the executive, in accordance with the provisions of Article 29." Only one prophetic dissenter in Congress rose to object to this article. Deputy Fajardo stated:

There is a contradiction in Article 49, because two powers are joined in one under the conditions set forth in Article 29. . . . I do not think that Congress wants to delegate its functions to the executive, no matter what the circumstances might be. You can grant the executive some extraordinary powers but you cannot admit constitutionally that the executive can assume two powers. If you join them both, you sanction dictatorship. There is no necessity for Article 49 if there are no obstacles set up in the legislative power.

There are even more extraordinary powers given to the president in Article 29 than there were in the Constitution of 1857. Juárez, our best president, ruled by extraordinary powers and never by the Constitution. From 1860 until 1867 Juárez had extraordinary powers and Congress didn't set any other limitation than saving the national independence and integrity, the republican form of government and maintenance of the laws of reform. Juárez complied with this, but will we have many like him? Will the people give Congress the power to delegate their legislative powers to a sole person?²¹

But Deputy Narváez answered Fajardo and gained approval for Article 49 by stating:

The only thing we can do is accept Article 49 because Article 29 is already approved. Let us examine Article 29 to determine when two powers might be joined together. The president has legislative power under Article 29 when there is a grave situation. If the constitutional guarantees are suspended, an army general could catch a bandit and try him by courtmartial and execute the sentence, instead of proceeding with the ordinary judicial process. By administrative authority granted to the executive in the form of military control, there would be a vague joining of the executive and judicial powers into one.

Thus, it would seem that Article 29 established the union of two powers in one for certain varied and limited cases. But Article 49 is only the result of Article 29. It does not grant any new powers but puts what was stated in Article 29 on a safe basis.

There is no reason or justification for Fajardo's objection, as Article 29 has been adopted already and he should have brought up his argument when Article 29 was under discussion.²²

²¹ *Diario de los Debates*, II, 405-406.

²² *Ibid.*, 407.

Article 49 then was accepted as proposed and the way was paved for just such dictatorial usurpation of power by the executive as Deputy Fajardo feared.

The adoption of these constitutional provisions completely remade the 1857 executive and eliminated the supremacy of the legislative branch of government. This appears to have been the dominant theme at Querétaro as far as the sections devoted to the chief executive were concerned, and followed the request of Carranza contained in his *Projecto* outlining the need for a new constitution. At the same time, although considerably more isolated in nature, were the warnings against granting too much power to the president without adequate constitutional, legislative, and judicial checks on his authority. The Constitution of 1857 unwisely had given the national Congress such a hold on the president that he, in order to defend himself, particularly during times of emergency, had been forced to ignore strict observance of the constitutional norm in order to gain legislative acceptance of his policies.²³ But in reversing the constitutional position of the president, the delegates at Querétaro virtually guaranteed, with relatively little thought or discussion, executive dictatorship in varying forms.

The Constitution of 1917 placed tremendous power and responsibility in the hands of the president. It is true that the *constituyentes* were *Carrancistas* intent upon pleasing their chief and desirous of granting him "omnipotence and unlimited power."²⁴ It is also true that Carranza and others recognized the fallacy of legislative domination provided by the 1857 Constitution and sought to eliminate those provisions which had brought such unfortunate results. But in guaranteeing a strong presidential system, based in a large part upon the model of the United States, Querétaro ignored the governmental subtleties included in and required by that model. There had been no previous experience with judicial review and no aspect of this governmental check was instituted or requested. The sporadic demands for the adoption of features of parliamentary government were indicative that there was some vague feeling of the need for a working balance between the executive and legislative branches operating through the necessary checks and balances. Undoubtedly the

²³ See Ricardo García Granados, *El Problema de la Organización Política de México*, Mexico, 1909, 27-30, and Emilio Rabasa, *La Organización Política de México*, Madrid, 1917, 203-204.

²⁴ Manuel Calero, *Un Decenio de Política Mexicana*, New York, 1920, 85.

uneasiness over the strong president they were creating felt by a number of delegates was crystallized in the defeat of the official proposal for presidential succession. Such fears also were involved in the protest against the inability of Congress to call itself into special session, in the event of a natural emergency or an illegal act of the president. It is ironic that in the official reply to this criticism, Deputy Narváez observed in passing that "it was not too common [for a president of Mexico] to violate the Constitution!" But there were no protests in the adoption of Article 27 which, without limitation, directly injected the chief executive into the economic and social life of the country and, as one outspoken critic (not at Querétaro) noted at the time, "all enterprises are now at the mercy of the executive. . . . The immediate success and future development of industrial enterprises is dependent upon the arbitrary judgement of the executive and his dependent governors."²⁵

Without debate, provisions were inserted in the Constitution of 1917 in order to strengthen the position of the national executive which, in effect, have weakened the federal structure of government.²⁶ In addition to a wide range of legislative power,²⁷ federal authorities were granted a large measure of control over state governments. Should the president determine that a law passed by a state legislature is unconstitutional, he may proceed to have it removed from the statute books by his personal directive, or he can act through the federal Senate.²⁸

As the highest official exercising "supreme executive power," and as the chief of administration, the president of Mexico, upon entering office, swears to "defend and enforce the Constitution—and the laws arising thereunder." Inasmuch as Mexico is, according to Article 40 of the Constitution, "a democratic, representative republic, with individual state governments based on popular

²⁵ Jorge Vera Estánol, *Al Margen de la Constitución*, Los Angeles, 1919, 132, 135.

²⁶ The only protest at Querétaro against the encroachment of centralism upon the federal system in Mexico came in connection with the debate over presidential succession. Deputy Truchuelo observed that "federalism would be destroyed and replaced by centralism by such a system of indirect election." *Diario de los Debates*, II, 392.

²⁷ For example, exclusive legislative power over such matters as labor, agriculture, commerce, mining, and credit institutions belongs to the national Congress.

²⁸ See Odilon Ramírez Pelayo, *Necesidad de reglamentar la fracción V del Artículo 76 Constitucional en materia de desaparición de poderes de las entidades federativas*, Mexico, 1944, 51-100.

sovereignty," the president, by his affirmation of his oath of office, must defend and uphold the democratic, republican features of the Constitution and the laws stemming therefrom. Since there is no definition of what a democratic republic actually is, or what is meant by popular sovereignty in the states, Mexican presidents under the 1917 Constitution, acting through the *Secretaría de Gobernación*, have taken it upon themselves to define these terms, interpreting them and judging whether certain laws and institutions met their personally determined standards.

The method of presidential intervention in the states to uphold the laws of the land, takes the form of a zone commander of the Army standing ready to force a state legislature to rescind a faulty piece of legislation. Or the zone commander can stand by to see that "republican institutions" are upheld at election time or in some crisis or emergency.

The second method of presidential intervention in state affairs involves the federal Senate as the co-conspirator, working under Article 76 of the Constitution. By this article, the Senate is given the power to declare that the constitutional powers of any state have disappeared as the result of some political act. As the consequence of such an act, the Senate orders the removal of the governor, and selects a provisional-governor by a two-thirds vote from a list of three names (*terna*) proposed by the president. The provisional governor then calls new elections. The Senate also is empowered to adjust all political questions arising "between the powers of a state whenever one of them shall appeal to the Senate," or an uprising resulting from such differences. In addition, if a state legislature or a governor so requests, the president is empowered, according to Article 22 of the Constitution, to intervene in an internal disturbance occurring in the state.

Though the Senate is the final authority in removing a state governor from office, there are earlier steps taken which lead to this final act and involves the commanding position of the *Secretaría de Gobernación*. The vast power of *Gobernación*,²⁹ without the

²⁹ The *Secretaría de Gobernación* is one of the major sources of presidential power. It is the central core of administration, expediting all relations between the president, the Congress, and the judiciary. It is an important bill-drafting agency, enforces the election laws, and supervises the religious affairs of the nation. Frequently, this secretariat drafts and executes expropriation orders. See *Reglamento de la ley Secretaría y Departamento de Estado*, in *Diario Oficial*, January 2, 1947.

checks demanded by Deputy Jara at Querétaro, includes the supervision of subjects known as *relaciones exteriores*, referring in particular to conflicts between state officials and in state elections. The *Secretaría* receives all complaints from the states concerning political matters, and their information is supplemented by reports made by his investigative representatives. *Gobernación* attempts to and does settle a number of such problems. However, should the *Secretaría* be unable to settle a particular matter, at the direction of the president, he turns over all his information, findings, and recommendations to the Senate. Since there is no regulatory law on the subject, the Senate customarily waits until the matter is referred to it by *Gobernación*. The Senate then proceeds to decide the case on the advice of *Gobernación* and has always handed down its decisions on this basis. The practice of presidential intervention in state elections began with Calles and reached its peak in 1935 and 1936, when Cárdenas eliminated all the *Callista* governors.³⁰

More prophetic than his colleagues was Deputy Fajardo, who objected at Querétaro to the legislative power granted to the president in Articles 29 and 49 to contend with a grave national emergency. It so happens that by the time the constituent congress met at Querétaro in 1916, the policy by which Congress had granted the president extraordinary powers to legislate in peacetime or in the absence of an emergency without the necessary suspension of constitutional guarantees had been firmly established.³¹ Further evidence of the recognition of such a practice can be gathered from the special reference made by Carranza to the situation in his proposals for the new constitution. He emphasized that the fundamental principle of separation of powers called for in the Constitution of 1857 was never fully in operation. It lost all positive value due to the fact that in practice, the president monopolized all power. The most extreme violation of the principle developed as a result of Congress granting the President the power to legislate on all types of questions.³² Nevertheless, Article 29 was adopted without debate in substantially the same form as it had appeared in 1857. Only Deputy

³⁰ The removal of state governors of Cárdenas is described in Eduardo J. Correa, *El Balance del Cardenismo*, Mexico 1941, pp. 75-87. Intervention in sixteen gubernatorial elections was noted by the *Secretaría de Gobernación* in his *Memoria . . . de Setiembre de 1936 a Agosto de 1937*, 30.

³¹ Gabino Fraga, *Derecho Administrativo*, Mexico, 1948, 4th ed., 116-120.

³² *Diario de los Debates*, I, 261.

Fajardo disputed Article 49 and, in so doing, cast doubts on Article 29.³³

In this light, it would seem almost incredible that but a few days after he had promulgated the new constitution, Carranza asked for and secured a grant of extraordinary power from Congress on May 8, 1917.³⁴ He thereby established the precedent under the Constitution of 1917 for legislating by executive decree.³⁵ Most of the important legislation from 1920 until 1938 was done by executive decrees stemming from grants of extraordinary powers authorized by Congress, without the existence of a national emergency or a suspension of the constitutional guarantees.³⁶

Thirty-seven years have passed since the convention at Querétaro ended its labors. During this period the Mexican nation has been confronted with innumerable governmental problems, many of which can be traced to the 1917 Constitution. In no sense is this document a faulty one in that it contains in itself unworkable provisions as gauged by the yardstick of the political scientist. In many respects, taken as a whole, the Mexican Constitution of 1917 is a truly remarkable modern document. But, as is so frequent in

³³ Article 49 of the 1917 Constitution duplicated the exact wording of Article 50 of 1857 but added one sentence. After prohibiting the union of two or more powers in one person, it provides that the legislative power cannot be placed in the hands of one individual, "except in the case of extraordinary powers granted to the executive in accordance with the provisions of Article 29." Thus, the principle of separation of powers can be altered when, according to Article 29, "in cases of invasion, grave disturbance of the public peace, or any other emergency which may place society in grave danger or conflict," the president, with the concurrence of his cabinet, asks for and receives from Congress the power to suspend constitutional guarantees throughout the nation. When Congress gives the president such authority, it "shall grant such powers as in his judgment the executive may need to meet the situation." This section of Article 29 is referring to the extraordinary powers mentioned in Article 49 by which the president can legislate by issuing executive decrees. Such a legislative delegation must be specified and have a time limit placed upon it. Also, the granting of such powers can only be made by Congress, as Article 29 states: "If the suspension occurs while Congress is in session, this body shall grant such powers to meet the situation; if the suspension occurs while the Congress is in recess, the Congress shall be convoked forthwith for the granting of such powers."

³⁴ Decree in *Diario Oficial*, May 8, 1917, and in Mariano Salas, *defensa de México*, Mexico, 1920, 68.

³⁵ "This provision permits the President to tax the country without asking the consent of Congress, to put people in jail without a trial, and to be, in short, a veritable tyrant," Ramón Beteta, "The Government of Mexico," *Lectures Before the Inter-American Institute*, Claremont, California, 1929, 8.

³⁶ For an extended treatment of this problem, see the author's, "The Development and Use of *Facultades Extraordinarias* in Mexico," *Southwestern Social Science Quarterly*, December, 1953, 17-33.

Latin America, this constitution, particularly its sections dealing with executive power, is anticipatory, based not upon reality but upon what ought to be.³⁷ It was not the product of long debate rooted in a solidified public opinion. Most of the provisions covering presidential powers were either not debated at all or discussed in a rather hap-hazard fashion. Those few who rose to object to certain features and warned against granting too much executive authority, were indeed prophetic. Possibly the delegates believed that the high principles of the revolution would be a sufficient check upon future leaders and would govern their conduct. But, in the last analysis, neither high principles nor constitutional provisions alone can provide a democratic system unless the citizens are prepared through tradition and understanding for the democratic process. As Viscount Bryce observed some time ago, "Do not give to a people institutions for which it is unripe in the simple faith that the tool will give skill to the workman's hand."

STEPHEN S. GOODSPEED

University of California
Santa Barbara College

³⁷ In this connection, see Russell N. Fitzgibbon, "Constitutional Development in Latin America; A Synthesis," *American Political Science Review*, Vol. XXXIX, No. 2 (June 1943), 521-522.

Sandino: Death and Aftermath

On January 25, 1933, a few weeks after the last United States Marines left Nicaragua, Augusto César Sandino announced his intention to end his war against foreign intervention and General Anastasio Somoza's *Guardia Nacional*.¹ In the face of danger from the "non-partisan" (National Guard), Sandino came to Managua on February 2, and negotiated a Peace Pact with the new President. The *Sandinistas* were granted a generous amnesty, land for a communal project, and preference in employment in public works projects, while Sandino was given the right to retain for one year a personal guard of one hundred men as government "auxiliaries."² He now declared that he had "nothing against North Americans" as long as they came to Nicaragua "as workers, not as bosses."³ Although Sandino had serious misgivings regarding the role of General Somoza in the government of President Juan B. Sacasa, he was comforted by the belief that his agreement with Sacasa had prevented the chief of the *Guardia* from usurping the authority of the new government.⁴

Somoza made no attempt to conceal his dissatisfaction with Sacasa's concessions to Sandino⁵ and reflected the resentment of his kinsman, the ex-President, José María Moncada, whose hatred of Sandino was accentuated by the frustration of four years of bitter warfare to exterminate the "bandit."⁶ Thus a few days after

¹ *New York Times*, January 26, 1932; Ramón Belausteguigoitia, *Con Sandino en Nicaragua, la hora de la paz*, Madrid, 1934, 38-39.

² See report by Matthew Hanna, Minister in Nicaragua, to the Secretary of State, February 3, 1933, in Archives of the Department of State, 817.00/Bandit Activities, hereafter cited as ADS. The author is grateful to the Division of Historical Policy Research of the Department of State for its cooperation in enabling him to work with the materials in the Archives of the Department of State.

³ "Nicaragua: Sandino Presents Arms," *Time*, XXII (February 13, 1933), 18; *New York Times*, February 4, 1933; *Literary Digest*, CXV (February 18, 1933), 8.

⁴ Belausteguigoitia, *op. cit.*, 11, 89, 139. Somoza was said to have owed his position as head of the *Guardia*, a combination police force and militia, to Hanna: "I'm the Champ," *Time*, LII (November 15, 1943), 43. As early as December, 1932, Sandino's spokesman, Salomón de la Selva, warned that only peace between the *Sandinistas* and Sacasa could frustrate the dictatorial ambitions of Somoza. *New York Times*, December 4, 1932.

⁵ Hanna to Secretary of State, February 6, 1933, ADS. Many shared Somoza's misgivings. Cf. *Correo Nacional* (San José), March 4, 1933.

⁶ Hanna had great difficulty restraining Moncada from taking the field personally against Sandino. See dispatches of Hanna to Secretary of State, November 1-16, 1932, ADS.

the final conclusion of the peace, Somoza told the American Minister that the *Guardia* "was keen to exterminate Sandino by force" because it was convinced that the pact with Sandino was a mistake.⁷ Meanwhile Sacasa's attempt to prevent trouble by curbing the Commander's authority merely provoked a crisis with Somoza.⁸ The Commander's near defiance of Sacasa constrained the American Minister, Matthew Hanna, to advise General Somoza to maintain an attitude of "unquestionable subordination" toward the President "regardless of the . . . annoyance that doing so may give him."⁹ Yet, even Hanna had misgivings regarding the peace because so many in the government doubted Sandino's sincerity and feared his auxiliary force.¹⁰ The first flush of enthusiasm over Sandino's cessation of hostilities was quickly replaced by a feeling that the peace was imperfect and incomplete.

Meanwhile, Sandino returned to San Rafael del Norte on February 7, and ordered his followers to disarm.¹¹ A day later, the Executive Delegate, Sofonías Salvatierra, arrived with funds and equipment for the *Sandinistas* to inaugurate their communal project. Somoza placed a *Guardia* detachment at the disposal of the Executive Delegate to supervise disarmament proceedings with instructions to avoid any trouble with the *Sandinistas*.¹² But in the days that followed, Somoza accused Salvatierra of being partial to the *Sandinistas* and tolerating provocations against the *Guardia* detachment.¹³

In spite of Somoza's complaints, the Nicaraguan Congress voted an amnesty on February 16 for all who had fought with Sandino since May 4, 1928, and who now agreed to disarm. When Salvatierra informed the government five days later that the disarmament proceedings were complete,¹⁴ Sandino celebrated the occasion with

⁷ *Ibid.*, February 6, 1933. In January, Somoza had enlisted some 1,250 irregulars for the campaign against Sandino.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Anastacio Somoza, *El Verdadero Sandino o El Calvario de las Segovias*, Managua, 1936, 458-460. Although this work is an *apologia* for Somoza's actions during 1933-1934, it contains much of the correspondence of Sandino and his collaborators but it must be used with caution; it will be cited hereafter as Somoza.

¹² General Somoza to Col. Rigoberto Reyes, February 10, 1953. Somoza, 461.

¹³ *Ibid.*, 463-465. Somoza later wrote that Salvatierra's attempt to make himself popular with Sandino was responsible for the imperfect disarmament of the guerrilla force. *Ibid.*, 467.

¹⁴ Sofonías Salvatierra to President Sacasa, February 21, 1933. *Ibid.*, 477.

a "victory" parade in San Rafael which embittered the *Guardia*. What further irritated Somoza was Sacasa's appointment of the *Sandinista* partisan, Horacio Portocarrero, to succeed Salvatierra as the Executive Delegate in Sandino's cooperative settlement at Wiwili on the Rio Coco.

Sacasa's sincerity did not diminish Sandino's fear of the *Guardia*. Nor was he confident that the withdrawal of the United States marines was permanent. He believed that the *Sandinistas* must keep themselves ready to defend "'Nicaragua's political and economic independence'" and protect themselves against an ever vengeful *Guardia*.¹⁵ Sandino now hoped to accomplish "the effective independence of Nicaragua" by the creation of a new political party which would be independent of the effete Liberals and Conservatives. This vision attracted to Sandino professional politicians who were determined to use his name and fame for their own purposes.¹⁶ Although they cleverly chided him for negotiating a "'shameful'" peace and urged him to be stubborn in his dealings with the government, Sandino refused to be stampeded into any precipitate action.¹⁷ He defended his peace with the government by arguing that it had been negotiated by Sacasa "'against the will of the State Department . . .'" and that the threat of American imperialism made it imperative that he, Sandino, should not "'commit suicide by being stubborn.'" ¹⁸

In late April, 1933, the Nicaraguan press published "rumors" of Sandino's plans to form a "National Labor Party" in collaboration with ex-President Bartolomé Martínez.¹⁹ Sacasa immediately attempted to appease the *Sandinistas* with the dispatch of a large quantity of foodstuffs for the Rio Coco Cooperative and invited Sandino to visit the capital at his earliest convenience. But in his meeting with Sandino in Managua on May 20,²⁰ the President failed to convince the *caudillo* that the formation of a third party was "inopportune" and unnecessary. Although Sandino publicly promised to continue his "moral support"²¹ of the administration, he firmly declared his intention to rally the "'workers, students and the

¹⁵ Sandino to Señora Lidia de Barahona, March 15, 1933. *Ibid.*, 481.

¹⁶ Dr. Norberto Salinas de Aguilar to Dr. Escolástico Lara, April 9, 1933. *Ibid.*, 483-484.

¹⁷ Dr. Humberto de Barahona to Sandino, April 15, 1933. *Ibid.*, 485. Dr. Barahona wrote from the safe sanctuary of Costa Rica.

¹⁸ Sandino to Barahona, May 27, 1933. *Ibid.*, 485-486.

¹⁹ *New York Times*, April 29, 1933.

²⁰ *Ibid.*, May 21, 1933.

²¹ *Ibid.*, May 24, 1933.

great mass of rural people' " in an "'Autonomist Party'" which would make the "'professional *políticos* tremble . . . [for] their ration which gives them their character.'" ²²

The Liberal and Conservative party organs quickly took up the challenge by cruelly ridiculing Sandino's naiveté with some allusions to his lack of mental capacity "to assimilate fundamental ideas" ²³ Sandino, certain that these attacks were inspired by Somoza and the *Guardia*, issued a proclamation declaring the *Guardia Nacional* unconstitutional and urging the President to arm the people. ²⁴ In spite of Sacasa's assurances, Sandino had left Managua with the conviction that "The *Guardia Nacional* is an enemy of the Government . . . because it [considers itself] superior to the Government" ²⁵

Even before his parley with the President, Sandino suspected that Somoza had forced Sacasa to approve the dispatch of a *Guardia* radio unit ordering it to watch the headquarters of the Auxiliary Force at Santa Cruz. ²⁶ Sandino countered this move by appointing the notorious outlaw, Pedro Altamirano, as his "personal representative" in nearby Bocay. To head off a clash, Sacasa frantically telegraphed Sandino to explain that he had ordered this move by the *Guardia* on his own initiative and to assure the *caudillo* that: "There is no danger that the *Guardia* will turn against the [Auxiliary Force], because the *Guardia Nacional* has my special instructions to consider [the Auxiliaries] an integral part of the National Army. . . ." ²⁷ But neither these pledges nor another conference with the President on May 20 allayed Sandino's fears or dissuaded him from his political project. He was now even more determined to establish a party dedicated to liberating the republic from the influence of the *Guardia*.

The death of his wife, Blanca, on June 2, 1933, following his return to San Rafael del Norte, aggravated Sandino's anxiety and ever-present sense of fatalism. It was at this time that Dr. Escolástico Lara reported to Sandino a meeting with Vicente Lombardo

²² General Francisco Estrada to Enrique Rivera Beltán, May 30, 1933. Somoza, 498.

²³ *La Prensa* (Managua), June 8, 1933.

²⁴ *New York Times*, June 23, 1933. This proclamation was virtually ignored by the Nicaraguan press.

²⁵ Sandino to General Francisco Estrada, May 24, 1933. Somoza, 494-495.

²⁶ Circular letter from Sandino to his lieutenants on May 2, 1933. *Ibid.*, 490-491.

²⁷ Sacasa to Sandino, May 13, 1933. *Ibid.*, 494.

Toledano, chief of the Mexican delegation to the Ibero-American Congress at San José, Costa Rica, in which the leftist labor leader offered to help Sandino create a new party if he could clearly define his objectives and join a "defensive league" against American imperialism. Lara urged Sandino to accept the proposal because of the support that Toledano promised in "'the future elections, and at any time if the circumstances demand it.'" ²⁸ At the same time, Lara warned Sandino against the professional politicians who would destroy his movement and his person if it served their purpose, and implored Sandino to repudiate Sacasa as a puppet of the traditional parties and the United States. ²⁹

Lara was determined to spur Sandino into action and urged the journalist, Norberto Salinas de Aguilar, to join him in committing the *caudillo* to a definite political program. ³⁰ While Aguilar was exhibiting a reluctance to comply with Lara's request, Sandino elaborated on the objectives of his new party and intensified his attack on the *Guardia*. In an article written for an Argentine journal, Sandino declared that the objective of his "'growing'" Autonomist Party was the restoration of the nation's "'political and economic independence'" which the *Guardia* was endangering by violating the Peace Pact and by its refusal to uphold the Constitution. ³¹ He charged that the *Guardia Nacional* was a tool of the American Department of State operated "'by the finger of the North American Minister in Managua,'" ³² and pledged to prevent the subjection of Nicaragua to the dictatorship of "'an army of irresponsibles about to become lawless.'" ³³ Sandino warned that he and his auxiliaries faced certain "assassination" at the hands of the *Guardia* if disarmed by the Government. ³⁴ Under these circumstances, President Sacasa was obligated to arm the "'civilian population of the Republic'" because "'It is not proper for men who consider themselves free, to bend before an army which is . . . lawless.'" ³⁵

²⁸ Dr. Escolástico Lara to Sandino, June 13, 1933. *Ibid.*, 502.

²⁹ Lara specifically referred to Dr. Rodolfo Espinosa who is alleged to have proposed a plan to the American Minister in Managua for the end of Sandino's "interference" in the Nicaraguan government. *Ibid.*, 503.

³⁰ Lara was, however, careful to request Aguilar not to take a notion to leave for Costa Rica without giving him at least a day's notice. Lara to Dr. Norberto Salinas de Aguilar, June 5, 1933. *Ibid.*, 504.

³¹ Somoza avers that the journalist Joaquín Trincado was the real author of the article. Cf. Augusto C. Sandino, "Timid Nicaragua," *La Balanza* (Buenos Aires), August 15, 1933, cited in *Ibid.*, 506-507.

³² *Ibid.*, 508.

³³ *Ibid.*, 508-509.

³⁴ *Ibid.*, 507.

³⁵ *Ibid.*, 508.

Escolástico Lara and Sandino now proceeded to establish a "Secret Postal Agency" to escape the vigilance of the *Guardia* and entrusted its operations to the most reliable elements of their group. While the *caudillo* remained in the interior, Lara and Aguilar "continued to prepare the land" and tried to discourage Sandino from dealings with the "'youngsters'" of the Liberal Republican group in Managua.³⁶ The more politically experienced Lara did not believe that the new *Sandinista* movement was ready to challenge the *Guardia* openly and therefore he cautiously rejected Sandino's offer to name him the official chief of the Autonomist Party.³⁷ He did not wish to endanger his person or position in an uncalculated risk and, for the time being, preferred to lie low. Thus, on June 20, 1933, Lara wrote to Sandino at Bocay attributing his lack of political activity to the unsettled political situation in Managua but reiterating his intention to rally all interested persons in the party *with Sandino as chief*. Lara again urged Sandino to make a ringing *pronunciamiento*,³⁸ but any element of surprise which might have resulted from such a declaration was dispelled by the *Guardia's* knowledge of the secret correspondence and Somoza's identification of Sandino's and Lara's collaborators.³⁹ Yet Somoza took no steps to crush the new *Sandinista* movement at this time because of the popularity of its leader and the decided reluctance of the President to precipitate an armed conflict.

The *Guardia's* attack in late July on Sandino's lieutenant, Altamirano,⁴⁰ whose wanton cruelty verged on the psychopathic,⁴¹ together with a mysterious explosion in the arsenal of the *Campo de Marte* in Managua soon after, caused Sacasa to declare a state of seige in the Republic. The President, fearing a *coup d'état* by the *Guardia*, wired Sandino to alert his auxiliaries for any emergency.⁴² Sandino responded with the mobilization of 600 men and a public announcement of his readiness to fight to defend

³⁶ Lara to Sandino, June 18, 1933. *Ibid.*, 510-512.

³⁷ *Ibid.*, 512.

³⁸ Lara to Sandino, June 20, 1933. *Ibid.*, 513.

³⁹ The *Guardia* had intercepted a communication from the *Sandinista* publicist, Alemán Bolaños, to one Sergio Ignatoff, dated July 10, 1933, declaring that "'Sandino prepares a campaign for the year 1934 to complete the liberation of his *Patria*.'" *Ibid.*, 517.

⁴⁰ *New York Times*, July 27, 1933; Hanna to the Secretary of State, July 28, 1933, ADS.

⁴¹ Cf. Willard L. Beaulac, *Career Ambassador*, New York, 1951, 115.

⁴² Sacasa to Sandino (teleg.), August 2, 1933. Somoza, 520. Sacasa's suspicions were perhaps aroused by the fact that Somoza had left his office at the camp only a few minutes before the explosion. *New York Times*, August 3, 1933.

Sacasa against "the enemies of Nicaragua."⁴³ It was well apparent to Somoza that Sandino suspected that the accident at the *Campo de Marte* was a part of an abortive plot of the *Guardia* to seize the government.⁴⁴

The events of late July and August convinced Sandino that the time had come to act. He now proceeded to formulate a declaration which would outline the objectives of the Autonomist Party, secure the support of Toledano, and revive the dream of Central American unity. On August 16, four days after Sacasa ended the state of siege,⁴⁵ Sandino issued the "Supreme Proclamation for the Union of Central America," outlining an ambitious project for a federal union with his Autonomist Party as the driving force.⁴⁶ Although the Executive Power of the "Republic of Central America" was to consist of a rotating Presidency and four Governor-Intendants to administer the governments of the five member states, the "Autonomist Force of Central America" was to be entrusted with the task of drawing up a constitution which would forever end foreign concessions and political intrigues, and save the dignity of the "Indo-Hispanic race" from the "bankers of Wall Street" by the abolition of the Monroe Doctrine.⁴⁷

The "Proclamation" was followed by a declaration⁴⁸ of the "Rules of the Autonomist Force of Central America" in which Sandino announced his intention to serve as "Supreme Chief" of its military "institution." This body was to be recruited from volunteers of both sexes in the proposed federation and dedicated to oppose "the present and future acts of the Monroe Doctrine" and to abolish all existing treaties between the Central American Republics and the United States. Local "intendants" or *jefes* would be charged with the defense of the peasantry against the rapacity of "the friends of rich capitalists and foreigners" and the liquidation of the latter's power. He pledged the Autonomist Force to cooperation with all Indo-Hispanic nations and peoples of the world who were working for the same "emancipation and universal fraternity" which the *Sandinista* movement had espoused against American imperialism during the years 1927-1933.⁴⁹

⁴³ Sandino to President Sacasa, August 7, 1933. Somoza, 521.

⁴⁴ See Somoza's statement in *Ibid.*, 522.

⁴⁵ *New York Times*, August 13, 1933.

⁴⁶ See "Proclamation" as printed verbatim in Somoza, 523-524.

⁴⁷ *Ibid.*, 525-526.

⁴⁸ August 18, 1933. *Ibid.*, 527.

⁴⁹ *Ibid.*, 528-530.

Sacasa was profoundly shaken by Sandino's proclamations but vacillated between a policy of appeasement and a policy of firmness. He refused to furnish any arms to Sandino's auxiliaries, but explained that his decision was not motivated by the fear that Sandino would use them unwisely.⁵⁰ In response to Sandino's demands for the restriction of the *Guardia's* power, the President replied that this problem was in the hands of the Congress and reminded the *caudillo* that the *Guardia* was necessary for the maintenance of peace in the Republic. At the same time he assured Sandino that he would personally do everything to prevent any differences between the *Sandinistas* and the *Guardia*.⁵¹

On August 23, immediately after the President's message to Sandino, a clash between the *Guardia* and *Sandinista* auxiliaries at Las Vegas caused Sacasa to intervene with a promise to restrain the *Guardia* and a plea to Sandino to deplore the incident.⁵² To assuage Somoza, the President issued a statement to the press clearing all political groups of blame for the recent blast in the military arsenal.⁵³ But in spite of Sacasa's efforts to pour oil over the troubled waters, the tension between the *Sandinistas* and the *Guardia* continued to mount during the months of September and October.⁵⁴ The President's acceptance of a loan from the United States elicited a strong protest from Sandino and caused him to journey to Managua to inform Sacasa personally that *Sandinismo* and its anti-imperialist tenets were unalterably opposed to reliance on the United States for anything.⁵⁵ Meanwhile, Sandino solicited aid from Lombardo Toledano in Mexico City and prepared for a break with the government.⁵⁶ In a letter to Aguilar in early October, Sandino prophetically wrote: "I am aware of the dangers to my life when I . . . cross the interior of the Republic, but I will continue to endure the dangers as long as things are not right in Nicaragua."⁵⁷

Discouraged by the lack of enthusiasm with which his proposals for a Central American Federation had been received in Nicaragua and Central America, Sandino called a halt to any further work for

⁵⁰ Sacasa to Sandino, August 21, 1933. *Ibid.*, 532.

⁵¹ *Ibid.*, 533-534.

⁵² *Ibid.*, 534.

⁵³ *New York Times*, August 26, 1933.

⁵⁴ On October 5, the government was forced to declare a state of siege for sixty days. *Ibid.*, October 6, 1933.

⁵⁵ Somoza, 535.

⁵⁶ Sandino to Dr. Norberto Salinas de Aguilar, October 6, 1933. *Ibid.*, 536.

⁵⁷ *Ibid.*

the organization of the Autonomist Party. He now counselled his followers to limit themselves to the passive policy of keeping the spirit of *Sandinismo* alive so that it would be "'a decisive factor against the *Guardia* in the first opportunity that presents itself" ⁵⁸

The commander of the auxiliaries, Francisco Estrada, took his chief at his word. He importuned actively against the *Guardia* with propaganda portraying Sandino as the real representative of the people and *Sandinismo* as the symbol of justice and peace in Nicaragua. When Sandino, accompanied by his lieutenants, journeyed from the Rio Coco Cooperative to San Rafael del Norte on November 16, there was a flurry of excitement which further increased antagonism between the *Sandinistas* and the *Guardia* and stirred the *caudillo* into action. His threats to resume war and the studied insolence of his bodyguard were viewed by the *Guardia* as deliberate insults to their prestige as the national force. ⁵⁹

Again Sacasa intervened by prevailing upon both Sandino and General Somoza to compose their differences. Since neither side was ready for a final showdown, Somoza and Sandino issued manifestoes stressing their "'friendship, patriotism and brotherhood . . . and . . . loyalty to the republic" ⁶⁰ These hollow utterances merely postponed the final crisis. Sandino's unshaken belief that the disarmament of his auxiliary force would result in an end of his political power and in the slaughter of his followers at the hands of the *Guardia*, made any attempt at conciliation impossible. On the other hand, Somoza was well aware that the existence of an extra-legal military force other than the *Guardia* was not only a threat to the stability of the Republic, but also an obstacle to the realization of his ambition to control the state.

The President made every effort to reassure Sandino by creating a special administrative district for the Rio Coco Cooperative under the jurisdiction of *Sandinista* chieftains and by promising to aid the Cooperative with the construction of a dam for irrigation, new machinery and implements for mining, the installation of a radio station, and the establishment of medical facilities. ⁶¹ Satisfied with these gestures, Sandino returned to Wiwili and even wired thanks to Somoza for the "'effective guarantees'" that the *Guardia* escort had

⁵⁸ *Ibid.* My italics.

⁵⁹ Captain Gabriel Castillo to Somoza, November 26, 1933. *Ibid.*, 541.

⁶⁰ *New York Times*, December 6, 1933.

⁶¹ Sacasa to Sandino, December 8, 1933. Somoza, 543-544.

provided for the safety of his men.⁶² However, appearances were misleading.

When Sandino's lieutenants journeyed to Managua in late December, 1933, to secure funds for the Rio Coco Cooperative, they found the *Guardia* alarmingly hostile. In the official organ of the *Guardia Nacional*, Somoza significantly grumbled that Nicaragua could not exist as a state within a state. He pledged the *Guardia* to a guarantee of the persons and property of all *Sandinistas* and personally assumed responsibility for the *caudillo's* safety whenever he came to Managua, but demanded that Sandino reciprocate by the disarmament of the auxiliaries in accordance with the Peace Pact. Somoza assured Sandino that he would even be allowed to retain a special bodyguard as an *integral part of the Guardia*.⁶³

Sandino's reply was a reiteration of his charge that the *Guardia* was unconstitutional and that Sacasa was obligated to arm the "civil population of the Republic" against that illegal force.⁶⁴ Events were moving swiftly to a climax.

On January 18, 1934, Dr. Lara reported from León that the *Guardia* was closely watching him and that he feared arrest. He was now urging Sandino "to set aside points of honor . . . for the good of the Fatherland and to save the lives of . . . people," and begged Dr. Aguilar to advise Sandino to exercise extreme caution.⁶⁵ Dr. Aguilar did just the opposite. He reported to Sandino the determination of the President, his brother, Dr. Frederico Sacasa, and General Somoza to accomplish the final disarmament of the *Sandinista* auxiliaries on February 17, 1934, and declared:

'We do not believe that there is anything to do except to go to war I am ready here . . . , if some 30,000.00 [cordobas] are available, to buy a high officer of the *Guardia* who might deliver the Campo [de Marte] to us . . . so that we might get possession of all the armament [in Managua] without firing a shot I have ready . . . about three thousand men, under . . . General Juan Tellez Gómez and others, with orders to depart for the encampment . . . whenever you order'⁶⁶

⁶² Sandino to Somoza, December 10, 1933. *Ibid.*, 545.

⁶³ See reprint of article published in January, 1934, issue of the periodical *Guardia Nacional*. *Ibid.*, 549.

⁶⁴ *Ibid.*, 550-551.

⁶⁵ Letter published in *La Prensa* (Managua), March 11, 1934.

⁶⁶ Dr. Norberto Salinas de Aguilar to Sandino, January 24, 1934, in *Ibid.* Also published as an undated communication in Somoza, 552-557. See also Arthur Bliss Lane to the Secretary of State, February 5, 1934. *Foreign Relations of the United States. Diplomatic Papers, 1934*, Washington, D. C., 1952, V, 526-527, hereafter cited as *F. R.*, 1934, V.

But Sandino harkened to Lara and on February 8, reluctantly accepted the President's invitation to come to Managua to negotiate the disarmament of his auxiliaries and the retention of a small guard for his personal protection.⁶⁷ However, the news of this was overshadowed by ex-President Moncada's unexpected and bitter attack on the President.⁶⁸ The open breach between Sacasa and Moncada apparently encouraged Sandino to resist the demands of the *Guardia*. Thus, on February 12, he issued "Decree No. 1" announcing his forthcoming trip to Managua "'to confer with the President . . . on matters of a political nature'" and ordered an alert in the Rio Coco Cooperative pending a settlement with Sacasa regarding the relations between the *Guardia* and the *Sandinista* army.⁶⁹

Sandino arrived in Managua on February 16, 1934, and immediately engaged in a series of conferences with Sacasa and his advisers.⁷⁰ The issue was clear—the *Guardia* was putting pressure on the government to accomplish the complete disarmament of Sandino's men by February 17, the termination date of the amnesty decree issued a year before to implement the Peace Pact of February 2, 1933. Somoza argued that the disarmament of Sandino's auxiliaries would enable the government to reduce the *Guardia* and thus remove a heavy drain on the national treasury. Even more important was his opinion that the life of the *Guardia* was at stake and that anarchy would overtake Nicaragua if its power were impaired.⁷¹ On the other hand, Sandino was convinced that only his auxiliaries stood between the *Guardia* and his life and the *Guardia* and Somoza's dictatorship in Nicaragua.

In this atmosphere of suspicion and distrust, negotiations between Sandino and the President proceeded too slowly for Somoza who chafed at Sacasa's "'unnecessarily conciliatory'" attitude. Somoza knew that Sacasa feared the power of the *Guardia* and was now attempting to use the *Sandinistas* to preserve his power against

⁶⁷ *La Noticia* (Managua), February 10, 1934; Lane to the Secretary of State, February 9, 1934. *F. R.*, 1934, V, 527.

⁶⁸ *La Noticia* (Managua), February 11, 1934; Lane to the Secretary of State, February 14, 1934. *F. R.*, 1934, V, 528. See also Arthur Bliss Lane, Minister in Nicaragua, to the Secretary of State, February 17, 1933, ADS. 817.00/Moncada.

⁶⁹ The "decree" was later published in *La Prensa* (Managua), March 11, 1934.

⁷⁰ Lane to the Secretary of State, February 20, 1934. *F. R.*, 1934, V, 528. See recapitulation of events in Lane to the Secretary of State, March 7, 1934, ADS.

⁷¹ *Ibid.*; Somoza, 564.

the Republic's only legal force.⁷² In a memorandum to the President, Sandino defined the issue by stating that

'there is the inconvenience of the existence of two armies, namely, the *Guardia* . . . , with unconstitutional forms and procedures, and the emergency guard which you have on the *Rio Coco* . . . , this . . . force being constitutional from the moment that it was created by you . . . as . . . President . . . and which depends on your own decision for its continuation or not.'⁷³

He reminded Sacasa that he had guaranteed the lives of *Sandinistas* and that such an "indispensable guaranty could not be realized without correcting the illegal form and procedures of the *Guardia*" Sandino now offered the use of his force to strengthen Presidential authority and to reform the *Guardia* "in accordance with the Constitution of the Republic . . .,"⁷⁴ in return for the recognition of his auxiliaries as a legal force.

Sacasa did not spurn the offer of support, but carefully refrained from publicly announcing what policy he would pursue. In answer to Sandino on February 20, the President cautiously wrote:

'[I] seek to satisfy . . . your desires in all which might tend to improve the functioning of the *Guardia* . . . which was created . . . to give an effective guaranty to Nicaraguans . . . of any class and the protection of the Constitution and its laws.

I have . . . been disposed [sic] . . . to do my part in order that the organic law and regulations of the *Guardia* . . . be corrected shortly . . . in order to adjust them to the Constitution and the administrative system . . . in the country.'⁷⁵

Until these "necessary reforms" were accomplished, Sacasa offered to place the four northern Departments under the jurisdiction of a *Sandinista* Executive Delegate who would command the *Guardia*, collect all arms "outside . . . the control of the government," and protect Sandino's command in those regions.⁷⁶ Sacasa was certain that he had resolved the conflict when Sandino accepted these proposals and General Horacio Portocarrero as the Executive Delegate.

⁷² Cf. *Time*, LII (November 15, 1948), 43; Lane to the Secretary of State, February 5, 1934. *F. R.*, 1934, V, 526-527.

⁷³ Sandino to Sacasa, February 19, 1934. *La Noticia* (Managua), February 22, 1934. See also Somoza, 558-559. Italics are mine.

⁷⁴ Cf. *La Noticia* (Managua), February 22, 1934; Lane to the Secretary of State, February 20, 1934. *F. R.*, 1934, V, 528.

⁷⁵ Sacasa to Sandino, February 20, 1934. *La Noticia* (Managua), February 22, 1934.

⁷⁶ *Ibid.*; Lane to the Secretary of State, February 22, 1934. *F. R.*, 1934, V, 530-531.

The agreement between the President and Sandino only served to fan the fires of resentment already consuming the *Guardia*. Upon learning of Sacasa's letter, Somoza hastened personally to tell the President that the appointment of Portocarrero was an insult to the *Guardia* and that the *Guardia* would not serve under the Executive Delegate.⁷⁷ When Sacasa refused to reverse his decision, Somoza left the Presidential House with the portentous warning: "'Should you make the appointment of General Portocarrero effective . . . I wish to be released from all responsibility as to the consequences.'" ⁷⁸ He was only restrained from proceeding *immediately* against Sandino and Sacasa by the American Minister, Arthur Bliss Lane.⁷⁹ But even more ominous was the appearance on February 21, of Sandino's implacable enemy, Moncada, who had come to the capital "for the purpose of bringing the Sandino matter to a head."⁸⁰

On the evening of February 21, Sandino, accompanied by his father, Don Gregorio, Juan Pablo Umanzor, Francisco Estrada, and his host, the Minister of Agriculture, Sofonías Salvatierra, dined with the President and engaged in final conversations regarding the new agreement. Upon leaving the Presidential House in Salvatierra's car, the party was stopped near the *Campo de Marte* by a squad of *Guardistas*. They were all placed under arrest. Don Gregorio and Salvatierra were detained at the camp. Sandino, Umanzor and Estrada were taken to a local air field and summarily executed. Twenty to thirty minutes after the arrest of Sandino's group, another *Guardia* detachment invaded Salvatierra's home, killing Sócrates Sandino and fatally wounding Salvatierra's son-in-law, Roland Murillo.⁸¹ Immediately after these events, Don Gregorio and Salvatierra were liberated by the American Minister who took them to the Legation and then to the Presidential House.⁸²

⁷⁷ Lane to the Secretary of State, March 7, 1934, ADS. See also Somoza, 561-564.

⁷⁸ See Somoza's record of his conversation with Sacasa on February 20, 1934. Somoza, 563.

⁷⁹ Lane to the Secretary of State, February 22 and 25, 1934. *F. R.*, 1934, V, 535. Somoza promised Lane, on four separate occasions, that he would not "start anything" without first consulting the Minister.

⁸⁰ Somoza informed Lane of the purpose of Moncada's visit on February 25. Lane to the Secretary of State, March 19, 1934, ADS.

⁸¹ Lane to the Secretary of State, March 19, 1934, ADS. Portocarrero escaped by plane from Managua. *New York Times*, February 23, 1934. See also *F. R.*, 1934, V, 531-532.

⁸² Lane to the Secretary of State, February 22, 1934. *F. R.*, 1934, V, 530; Lane to the Secretary of State, March 7, 1934, ADS. See Somoza's account, Somoza, 564-565, and that of Don Gregorio in which he relates that Sandino was permitted to telephone Somoza to ask of the reason for his arrest and asserts that the execution was carried out

Sacasa received the news with great consternation, and lost control of the situation because he was unable to reach Somoza. For the time being the *Guardia* was the real ruler in the capital, but late in the evening of February 21, the American Minister, at the request of the President, personally brought Somoza to the Presidential House in an effort to save the government.⁸³ Lane's action undoubtedly restrained Somoza and rescued Sacasa from his predicament. Nevertheless, Lane, still fearing a *coup* by Somoza, urgently requested that the Department of State either make a public statement regarding the non-recognition of revolutionary governments or dispatch a warship to Corinto. Both requests were rejected by Washington because it would give the appearance of intervention.⁸⁴

Meanwhile, on February 22, the President declared a state of siege which imposed a rigid censorship upon telegraphic communications and suspended the publication of newspapers.⁸⁵ Rumors began to circulate that Mr. Lane had conspired with Somoza and Moncada in the crime and was backing the General against Sacasa for the Presidency.⁸⁶ To refute these charges and bolster the indecisive Sacasa, Washington authorized Lane *privately* to inform Somoza that he must subordinate himself to the President.⁸⁷

On February 23, Sacasa had sufficiently recovered his composure to issue a declaration condemning the "'unjustifiable crime'" resulting from "'the defective functioning of the *Guardia*.'" He promised to conduct "'a vigorous investigation'" and pointedly remarked that he *hoped* he could count "'upon the decided obedience'" of the *Guardia* in punishing the guilty and reestablishing

immediately after the call by a Captain Frederico Blanco (*El Nacional* (Mexico City), March 16, 1934) to whom Somoza roared: "'Carry out your orders!'" Cf. *Time*, LII (November 15, 1948), 43.

⁸³ Lane to the Secretary of State, February 22, 1934. *F. R.*, 1934, V, 530; Lane to the Secretary of State, March 7, 1934, ADS.

⁸⁴ Memorandum of the telephone conversation of Edwin C. Wilson, Assistant Secretary of State, with Lane, February 23, 1934, ADS.

⁸⁵ *New York Times*, February 23, 1934. When Lane requested, on behalf of Sandino's step-mother, the bodies of her sons, Sacasa and Somoza refused because of the fear that a funeral would be liable to create disorders. Lane to the Secretary of State (teleg.), February 23, 1934, ADS.

⁸⁶ Memorandum of the telephone conversation of Edwin C. Wilson, Assistant Secretary of State, with Lane, February 23, 1934, ADS; Lane to the Secretary of State, February 27, 1934. *F. R.*, 1934, V, 541-542. *Guardia* officers celebrated Somoza's birthday at a party in which his candidacy for the Presidency and that of Moncada for the Senate were announced. *New York Times*, February 23, 1934.

⁸⁷ *New York Times*, February 23, 1934. See also Secretary of State to Lane (teleg.), February 23, 1934. *F. R.*, 1934, V, 535-536.

" 'the order that was regrettably broken.' " ⁸⁸ Somoza immediately reaffirmed the allegiance of the *Guardia* " 'to our excellent President' " and reported that " 'an [energetic] investigation of the ⁸⁹ events' " was being conducted to determine the responsibility for the recent murders even though he had already confessed his complicity to Lane. ⁹⁰

Still, neither the statements of Sacasa and Somoza, nor the protestations of the State Department could prevent the feeling of indignation which Sandino's murder provoked in the Mexican, Central American, and Caribbean press. Sandino suddenly achieved in death a greatness that they had not approached in life. Eulogies and editorials honored him in most of the Latin American journals, with hints or evidence of American connivance in the deed and castigations of Somoza and the "barbarism of [his] American trained force." ⁹¹ Almost all agreed that the "sacrifice" of Sandino was "an act of preverted patriotism . . ." ⁹² With the exception of a few leftist newspapers and journals of opinion, the greater part of the American press deplored the wanton murder of Sandino but viewed the situation in Nicaragua with detachment. In contrast to the sympathetic treatment that the guerrilla had received in American newspapers prior to 1933, ⁹³ the press approved the Roosevelt administration's policy of non-intervention and watchful waiting, and reflected the prevailing opinion that Sandino's death was

⁸⁸ *La Prensa* (Managua), February 25, 1934; *La Noticia* (Managua), February 24, 1934.

⁸⁹ The word "tragic" was deleted by Somoza from the original text.

⁹⁰ Lane to the Secretary of State, February 26, 1934, ADS; *New York Times*, February 24, 1934; *Cf. F. R.*, 1934, V, 535.

⁹¹ *Cf. F. R.*, 1934, V, 542; *La Prensa Libre* (San José), February 22, 1934; *Diario de Costa Rica* (San José), February 24 and April 12, 1934; *El País* (San José), March 5, 1934; *La Hora* (San José), March 5 and 8, 1934; *El Cronista* (Tegucigalpa), February 23 and 26, 1934; *El Ciudadano* (Tegucigalpa), February 27, 1934; *La Opinión* (Santo Domingo), February 22 and 23, 1934; *Listín Diario* (Santo Domingo), February 23 and 25, 1934; *Bahoruco* (Santo Domingo), February 22 and 23, 1934; *Nuevo Diario* (Santo Domingo), February 23, 1934; *El Mundo* (Mexico City), February 23, 1934; *Diario de Yucatán* (Mérida), February 23, 1934; *La Prensa* (Mexico City), February 23 and 28, 1934; *La Palabra* (Mexico City), February 24, 1934; *El Nacional* (Mexico City), February 24, 1934; *Omega* (Mexico City), February 26, 1934; *El Norte* (San Pedro Sula), February 24, 1934. These statements provoked a number of anti-American demonstrations, but much of this ill-feeling was dissipated by the publication of Don Gregorio's account of his sons' death. *El Nacional* (Mexico City), March 16, 1934; *El Universal* (Mexico City), April 3, 1934.

⁹² *La Opinión* (Santo Domingo), February 23, 1934.

⁹³ See Joseph O. Baylen, "Sandino: Patriot or Bandit?" *The Hispanic American Historical Review*, XXXI (August, 1951), 410-411; *New York Times*, February 23 to April 2, 1934.

the result of an internal quarrel which was of no concern to the United States.⁹⁴

When censorship restrictions were ended on February 25, Managua's newspapers published restrained narratives of the events of the preceding days, guarded editorials lamenting the crime, and official declarations of the President and Somoza, but avoided any mention of a breach between the civil and military authority.⁹⁵ Official declarations served to calm somewhat the apprehension of the public, and further reassurance was given on February 25 when Somoza and his staff officers called upon the President to renew publicly their oath of allegiance.⁹⁶ This was followed the next day by Somoza's general order enjoining his men to uphold and respect the members of the government. However, Somoza's conciliatory attitude was largely the result of Minister Lane's energetic action to insure the General's subordination to the President.⁹⁷

These professions of loyalty did not end the atmosphere of nervousness prevailing in the Presidential House where Salvatierra, Don Gregorio, and other *Sandinistas* were still refugees. Neither Sacasa nor those under his protection ventured into Managua, and the Presidential House was fortified in anticipation of a siege. Under such conditions it was clear that only "a restoration of mutual confidence" was necessary to maintain peace.⁹⁸ Again, Lane asked the Department of State for a statement to strengthen Sacasa by denying that the United States favored Somoza.⁹⁹ Cordell Hull and Sumner Welles refused to act on the premise that there was a larger question of policy involved, namely, that the United States wished to

⁹⁴ *Literary Digest*, CXVII (March 3, 1934), 7. See also "Nicaragua: Murder at the Crossroads," *Time*, XXII (March 5, 1934), 16-17.

⁹⁵ *La Noticia* (Managua), February 25, 1934; *El Pueblo* (Managua), February 25, 1934; *La Prensa* (Managua), February 25, 1934; *La Nueva Prensa* (Managua), February 25, 1934. The exception was *La Tribuna* (February 25, 1934), which eulogized Sandino as a martyr and as a result suffered prolonged suspension.

⁹⁶ Lane to the Secretary of State, February 25 and 26, 1934. *F. R.*, 1934, V, 537, 539-540; Lane to the Secretary of State, March 7, 1934, ADS. At a dance given in his honor in Granada, Somoza took advantage of the opportunity to declare that he and the *Guardia* "have stripped themselves of all personal ambitions and harbor no sentiments other than those of loyalty to the President . . ." *La Nueva Prensa* (Managua), April 28, 1934.

⁹⁷ *Cf. F. R.*, 1934, V, 536.

⁹⁸ Lane to the Secretary of State, February 26, 1934. *F. R.*, 1934, V, 540; Lane to the Secretary of State, March 7, 1934, ADS.

⁹⁹ Memorandum of the telephone conversation of Edwin C. Wilson, Assistant Secretary of State, with Lane, February 24, 1934, ADS.

avoid any impression that it was seeking to control the internal affairs of the Central American states.¹⁰⁰

The tension lessened somewhat with the collapse of anticipated *Sandinista* resistance at Wiwilí,¹⁰¹ and Sacasa's appointment of a Council of War to investigate and punish "without fear or favor" those guilty of the late slayings.¹⁰² When the *Moncadistas* and the Conservatives blocked his attempt to strengthen his control over the *Guardia* by an act of Congress, Sacasa boldly issued a decree on March 1, 1934, assuming more *direct* control over the administration of the Departments and the police forces of the Republic.¹⁰³ Immediately after the promulgation of the decree, Sacasa summoned Somoza to the Presidential House and in the presence of the diplomats of all the American nations read the decree to the Commander of the *Guardia* with the request that the General repeat the oath of obedience.¹⁰⁴

The diplomats present at the ceremony felt that the President's show of distrust did everything but insure the *Guardia's* obedience. Thus Lane, aided by the Ministers of Mexico and El Salvador, advised Sacasa to make a gesture which would indicate his confidence in the *Guardia*.¹⁰⁵ The President reluctantly acted on their advice by halting the fortification of the Presidential House. By March 5, when it was clear that Somoza had no intention of rebelling,¹⁰⁶ Sacasa and the refugees descended from their stronghold and everything appeared normal except for the continuance of the state of siege.¹⁰⁷ But Sacasa's administration was not entirely out of danger. This was made clear in Minister Lane's dispatch to the Department of State in which he reported:

¹⁰⁰ *Ibid.*; Secretary of State to Lane, February 26, 1934. *F. R.*, 1934, V, 538-539.

¹⁰¹ Lane to the Secretary of State, February 24, 1934, ADS; Lane to the Secretary of State, February 26, 1934. *F. R.*, 1934, V, 539.

¹⁰² *New York Times*, February 26, 1934.

¹⁰³ Lane to the Secretary of State, March 7, 1934, ADS.

¹⁰⁴ Lane to the Secretary of State, March 1, 1934. *F. R.*, 1934, V, 546-547.

¹⁰⁵ *Ibid.*, 543-545.

¹⁰⁶ Lane to the Secretary of State, March 5, 1934, ADS; Lane to the Secretary of State, March 6, 1934. *F. R.*, 1934, V, 485.

¹⁰⁷ Lane to the Secretary of State, March 7, 1934, ADS. The discretion of the newspapers which resumed publication on March 5 also contributed to a restoration of order. American newspapers were, however, publishing reports that Sandino had been "laying the foundation of a Communist state" through a well-planned revolt on the east coast. *New York Times*, March 4, 1934.

*We must be prepared for further uneasy situations . . . until the questions of the composition of the Guardia and its relations to the Government are definitely and satisfactorily determined.*¹⁰⁸

Here, then, was the crux of the problem which had caused Sandino's demise. Its solution was further complicated and delayed by partisan politics.

Throughout the crisis, the Conservatives had refused to support the President in his difficulties with Somoza and the *Moncadistas*. They were irked by Sacasa's failure to consult them and tried to show their dissatisfaction by attempting to block a resolution of confidence in the President which was voted by the Chamber of Deputies on March 7.¹⁰⁹ However, two days later the Conservatives reversed themselves and voted for the resolution¹¹⁰ because of the revelations of Don Gregorio, who had arrived in El Salvador on March 8, which absolved Sacasa of any blame for the murder of his sons and accused Moncada and Somoza of being the chief authors of the deed.¹¹¹

General Somoza now released for publication documents captured by the *Guardia*, together with the confessions of Lara and Aguilar, "revealing" Sandino's plot to revolt in the event that the President proved intransigent, and the *caudillo's* proposal for an alliance with the *Guardia* to depose Sacasa to show that "'Sandino did not deserve the gentlemanly treatment shown him by . . . the President.'" ¹¹² Moncada joined Somoza in publicly asserting that "'the guerilla warrior'" ¹¹³ was a traitor who had deserved death, but his attempt to clear himself with the statement that "'the true

¹⁰⁸ Lane to the Secretary of State, March 7, 1934, ADS. Italics are mine.

¹⁰⁹ Lane to the Secretary of State, March 9, 1934, ADS; *La Noticia* (Managua), March 9, 1934.

¹¹⁰ *La Prensa* (Managua), March 10, 1934.

¹¹¹ Don Gregorio reported that no real effort would be made to punish the assassins who "were enjoying complete freedom and parade the streets [in] Managua, boasting of their crime . . ." *New York Times*, March 9, 1934. See also his statements published in *El Nacional* (Mexico City), March 16, 1934. Upon receiving the report of the death of Sandino's daughter, the grandfather declared that he had lost his faith in Sacasa's pledge to bring his son's slayers to justice because the President was a tool of Somoza. *New York Times*, March 13, 1934. See also Major A. R. Harris, Military Attaché in Costa Rica, to the Department of State, ADS. Sofonías Salvatierra arrived in Panama City on March 11 (*New York Times*, March 12, 1934), enroute to Spain on a "government mission." Lane to the Secretary of State, March 15, 1934, ADS.

¹¹² *La Prensa* (Managua), March 11, 1934; *New York Times*, March 12, 1934.

¹¹³ Prior to 1933, Moncada had consistently referred to Sandino as a "bandit" or "outlaw."

culprits' " would be unmasked to the public signalled a split with his kinsman.¹¹⁴ Somoza, bitterly resenting the ex-President's desire to shift the blame to the *Guardia* and its chief, immediately condemned the ex-President's "hypocritical" attitude to the American Minister.¹¹⁵ Nevertheless, the differences between Moncada and Somoza were temporarily submerged by their common desire to escape the responsibility and public censure for Sandino's death. While certain sections of the press were inspired to destroy the martyrdom of Sandino by an exposé of his life as a "traitor,"¹¹⁶ Somoza attempted to delay Sacasa's investigation until all of the men who had participated in the crime were out of the country.¹¹⁷ This back-fired when the *Guardia* Captain Camillo Gonzales boasted, upon his arrival in Costa Rica, that he had shot Sandino on written orders from Somoza.¹¹⁸ Even more embarrassing were the pronouncements of Sandino's loquacious confederate, Dr. Pedro José Zepeda, accusing Somoza of having murdered Sandino because the *caudillo* had refused to cooperate with the *Guardia* in overthrowing the government.¹¹⁹ Somoza, with ill-concealed discomfort, immediately sought to refute Zepeda's charges,¹²⁰ but he was now concerned with more important things—the forthcoming elections.

In spite of official assurances and the appearance of calm, the question of the position of the *Guardia* in the coming senatorial elections greatly worried the President. He was troubled by Moncada's candidacy for the Senate and the support given to him by the *Guardia* and the Conservatives.¹²¹ There was also the question of "free" elections, which Sacasa now seemed to oppose by manipulating the election law and by using his official position

¹¹⁴ *La Noticia* (Managua), March 17, 1934.

¹¹⁵ Lane to the Secretary of State (Confidential), March 19, 1934, ADS. Some of the ill-feeling was undoubtedly caused by Moncada's dismissal of Somoza for corruption a few years before. Cf. *Time*, LII (November 15, 1948), 43.

¹¹⁶ *Nuestro Diario* (Managua), March 19, 1934.

¹¹⁷ Major A. R. Harris, Military Attaché in Costa Rica, to the Secretary of State, March 29, 1934, ADS. 811.111/Gonzales.

¹¹⁸ *La Hora* (San José), March 26, 1934. Upon his arrival in the United States on April 1, Gonzales was detained at Ellis Island by immigration authorities, but he denied his part in the crime. He was later released and cleared by a Board of Inquiry on the grounds that the report of his guilt was "unworthy of belief." *New York Times*, April 2 and 10, 1934.

¹¹⁹ *New York Times*, April 5, 1934; Josephus Daniels, Ambassador to Mexico, to the Secretary of State, April 6, 1934, ADS; *El Nacional* (Mexico City), April 3, 1934.

¹²⁰ *New York Times*, April 5, 1934.

¹²¹ Lane to the Secretary of State, April 24, 1934, ADS.

and the *Guardia* to keep Moncada out of Congress.¹²² Yet, he was well aware of the popular feeling that the *Guardia* should be reduced because its maintenance imposed a terrific burden on the Treasury.¹²³ But here is where Somoza, who would not permit the President's use of the *Guardia* to prevent "free" elections, held the advantage. He was well apprised of the President's dilemma and determined to make the most of it by opposing any reduction in the size of the *Guardia*. This politico-military organization controlled the results of the "free" elections which it was supposed to supervise impartially and would revolt rather than have its personnel reduced.¹²⁴

Sacasa, in the face of opposition in his Cabinet, extended the state of siege on April 20,¹²⁵ and to conciliate Somoza, appointed the General's brother-in-law, León Debayle, Under-Secretary of Gobernación.¹²⁶ Still, this did not appease Somoza and again the American Minister was forced to attempt to close the ever widening breach between the President and the General. Sacasa promised to guarantee a "free" and fair election in Moncada's Department but warned Lane that the election of Moncada to the Senate would only menace the peace of Nicaragua.¹²⁷

Lane's work was further complicated by an article written by Somoza's secretary, A. Reyes Huete, in a newspaper subsidized by the General which deplored "The uncertainty from above" and volunteered that: "If this Government . . . was not a vacillating government, it would progress, with the strong support of the Army and of good Nicaraguans, to put an end to the disintegration which threatens the state."¹²⁸ The same journal also reprinted a satire bitterly lampooning Sacasa and the speculation of his brothers and traducing Lane for his alleged practice of "'always talking in secret with someone.'" ¹²⁹

Sacasa angrily suppressed the newspaper but was unable to

¹²² *Ibid.*; Lane to the Secretary of State, May 4, 1934. *F. R.*, 1934, V, 553.

¹²³ See memorandum of conversation between P. C. Daniels, *Chargé d' Affaires*, and Sacasa on April 27, 1934, as an enclosure of Lane to the Secretary of State, May 7, 1934, ADS. 817.00/Sacasa.

¹²⁴ Major A. R. Harris, Military Attaché in Costa Rica, to the Secretary of State, April 24, 1934, ADS; Lane to the Secretary of State, February 26, 1934. *F. R.*, 1934, V, 541; March 21, 1934, *Ibid.*, 549.

¹²⁵ Paul C. Daniels, *Chargé d' Affaires*, to the Secretary of State, April 26, 1934, ADS.

¹²⁶ Lane to the Secretary of State (teleg.), May 3, 1934, ADS.

¹²⁷ Lane to the Secretary of State, May 7, 1934, ADS.

¹²⁸ A. Reyes Huete, "The Electoral Farce and the Constituency," *La Nueva Prensa* (Managua), May 18, 1934.

¹²⁹ Reprint from the newspaper *La Reacción* (Granada), *Ibid.*

effect the imprisonment of Huete because of his position with the *Guardia*. The President now cited Huete's article to Lane as proof that Somoza was part of a *Moncadista* and Conservative plot to usurp the Presidency, and that the *Guardia* was supporting the return of Moncada to the Senate. The American Minister's advice that peaceful elections were more important for the welfare of Nicaragua than the triumph of any party, personal ambitions, or party strife did little to soothe Sacasa's suspicions.¹³⁰ He had lost all confidence in the non-partisanship of the *Guardia* and believed that he could save himself only by removing Somoza as *Jefe Director* and subordinating the potent national force to make it serve his purpose.¹³¹

When Lane, in his effort to reconcile the President and Somoza, approached the General, he blandly admitted trying to influence his Conservative and Liberal friends in Congress against Moncada's electoral opponent, who was also Sacasa's "whip" in the Chamber, but accused Sacasa of planning to veto an amnesty for the assassins of Sandino. He vowed to override the President's veto, and warned that he could not allow Sacasa to use the *Guardia* to prevent Moncada's election as Senator.¹³²

Lane's talk with Somoza and the subsequent removal of Reyes Huete from his position with the *Guardia* somewhat mollified the President.¹³³ But Sacasa was fast losing control of Congress to the *Moncadistas* and Somoza's friends. This was evident when the Chamber of Deputies challenged the President's right to prolong the state of siege and used Somoza as the authority for the fact that "Neither the country nor the *Guardia* . . . need the state of siege."¹³⁴ Yet neither Moncada nor Somoza were able to persuade the Chamber to ignore public opinion and approve an amnesty for the persons involved in Sandino's murder.¹³⁵ This was also mute evidence of the coolness existing between Moncada and Somoza.

The breach between Moncada and his kinsman widened at a *Guardia* banquet in Granada in honor of Somoza on June 17. When called upon to speak as an honored guest, Moncada approved the

¹³⁰ Lane to the Secretary of State, May 21, 1934, ADS.

¹³¹ Lane to the Secretary of State, May 25, 1934, ADS.

¹³² *Ibid.*

¹³³ Lane to the Secretary of State, May 25, 1934, ADS. 817.00/Reyes Huete.

¹³⁴ Lane to the Secretary of State, May 28, 1934, ADS.

¹³⁵ *La Noticia* (Managua), May 31, 1934.

liquidation of Sandino and assured the *Guardia* that " 'It was pure patriotism to kill Sandino, as it will always be in any part of the world to put an end to those monstrous beings who voluntarily exclude themselves from civilized society.' " Then he startled those present when he imprudently mused that " 'It is a great shame that [Sandino] did not die in open battle . . . , ' " with the inference that the *Guardia* rather than his administration was responsible for the guerrilla's survival as a danger until after 1933. Worse yet, he counselled the *Guardia* to live up to its " 'responsibilities' " in the forthcoming elections.¹³⁶

Somoza (who was reported to have been well in his cups) was so incensed by Moncada's utterances that he immediately undertook to correct the ex-President by informing his audience that it was only " 'Through the magnanimity of the President . . . [that] Sandino did not die in battle' " and was saved from defeat at the hands of the *Guardia* before 1933. Even more startling was Somoza's acceptance of the responsibility for the murder of Sandino and his companions:

'From the very moment . . . Sandino declared himself independent of . . . the Constitution, he outlawed himself and from that instant his life was subject to the risks run by every traitor. Members of the Army, knowing the suffering which another revolution would mean for Nicaragua, cut off the cause of such disturbance [acting] without advice.'¹³⁷

As chief of Nicaragua's " 'non-political army,' " he hinted that he had Lane's support in the coming election and pointedly pledged the *Guardia* " 'to guarantee the coming elections by its impartiality ' " ¹³⁸ Moncada left Granada chagrined and embittered.

Although Somoza's utterances ¹³⁹ helped to increase the political importance of the *Guardia*, they also stimulated a propaganda barrage by professional *Sandinistas* in exile, which caused some embarrassment for the United States. In Mexico, Pedro José Zepeda called upon Sacasa to dismiss Somoza and bring him to trial for

¹³⁶ For the text of Moncada's speech see *El Diario Nicaragüense* (Granada), June 19, 1934.

¹³⁷ *Ibid.* See also the report of Somoza's speech and the reaction to it in *Noticias Gráficas* (Buenos Aires), June 21, 1934; Lane to the Secretary of State, June 19, 1934. *F. R.*, 1934, V, 556.

¹³⁸ *El Diario Nicaragüense* (Granada), June 19, 1934; *La Noticia* (Managua), June 19, 1934.

¹³⁹ A carefully edited version of Somoza's speech which stressed his remarks on free elections rather than his statements on Sandino's murder was published in *El Diario Nicaragüense* (Granada), June 19, 1934.

the murder of Sandino, and cited the "'intimate relations'" between the General and the Minister Lane¹⁴⁰ as proof that Lane had abetted Somoza in his homicide.¹⁴¹ The Minister and the Department of State considered these charges sufficiently serious to warrant a special statement by Lane denouncing these "unfounded and malicious rumors" as absolutely false, and reiterating that the "Good Neighbor Policy" of the United States precluded any interference in the political affairs of Nicaragua.¹⁴² The Assistant Secretary of State, Edwin C. Wilson, called a special press conference on June 26 and went to great lengths to explain that the Minister's statement was necessary to dispel any unfounded rumors regarding American favoritism or intervention which might complicate the forthcoming Nicaraguan elections in November.¹⁴³ The prompt action of Lane and the Department of State not only refuted Zepeda's charges, but frustrated Somoza's attempts to create the impression that the United States favored *Guardia* and its chief.¹⁴⁴

Meanwhile, Somoza issued a general order to the *Guardia* on June 28, instructing the force to act as "the jealous guardian of political impartiality" and to submit to no electoral pressure.¹⁴⁵ Since the President had not called upon the *Guardia* to supervise the elections, Somoza's order was a usurpation of the executive authority,¹⁴⁶ but Sacasa, faced with a resurgence of bandit activities under the old *Sandinista* banner in the northern Departments, was for the time being forced to bow to Somoza's arrogance.

In early July, various *Sandinista* chieftains took the field in the Segovias and continued their attacks on *Guardia* outposts and *fincas* until pacified by amnesties in January, 1935.¹⁴⁷ While there was no apparent connection between this unrest and the elections in November, it was clear that the memory and name of Sandino was still strong. This was perhaps a major reason for Somoza's demand for a special amnesty absolving the guilty of the respon-

¹⁴⁰ See Zepeda's open letter to President Franklin D. Roosevelt. *Excelsior* (Mexico City), June 22, 1934.

¹⁴¹ *Ibid.*, June 25, 1934.

¹⁴² Lane to the Secretary of State, June 25, 1934, ADS; *New York Times*, June 27, 1934; *La Noticia* (Managua), June 25, 1934.

¹⁴³ Memorandum of Special Press Conference held by Edwin C. Wilson on June 26, 1934, ADS.

¹⁴⁴ Lane to the Secretary of State, June 20, 1934, ADS.

¹⁴⁵ *La Nueva Prensa* (Managua), June 29, 1934.

¹⁴⁶ Allan Dawson, Second Secretary to the Legation, to the Secretary of State, June 29, 1934, ADS.

¹⁴⁷ See dispatches of Lane and Dawson to the Secretary of State, July 7, July 16, August 14, August 27, and September 12, 1934, ADS.

sibility for the murders of February 21. After much prodding and the presentation of evidence that Sandino was liquidated for plotting revolution, the Chamber of Deputies voted on August 23, 1934, full amnesty to the slayers of Sandino.¹⁴⁸ Somoza was now confident that he could proceed to the next objective—complete political power.

For the next two years Somoza, unable to assume the Presidency without incurring the displeasure of the Department of State, was content to remain the unseen power in the Republic. However, when Sacasa, in late May, 1936, attempted to unite the Liberals and Conservatives behind his candidate for the presidency, Somoza erupted.¹⁴⁹ During the first week of June, the *Guardia* seized control of most of Nicaragua and forced Sacasa into exile¹⁵⁰ in El Salvador with a denunciation of the "reprehensible character" of the military *coup*.¹⁵¹ Somoza, ineligible to succeed Sacasa because of his relation by marriage to Sacasa had the Nicaraguan Congress elect Dr. Carlos Brenes Jarquín to serve as interim President until the autumn elections.¹⁵² Somoza was duly elected to the Presidency and began his extended rule of Nicaragua upon entering office on January 1, 1937.

Thus Nicaragua's short-lived democracy came to an end, and Sandino's worst fears were realized. The sincere and somber *mestizo* had accurately assessed the danger of the "non-partisan" *Guardia Nacional* as a weapon in the hands of an ambitious personality. It was unfortunate that he, Sandino, had nothing better to offer and bequeath than a prophetic warning.

JOSEPH O. BAYLEN

New Mexico Highlands University

¹⁴⁸ *New York Times*, August 25, 1934.

¹⁴⁹ "Nicaragua: Artillery Party," *Time*, XXVII (June 8, 1936), 21-22.

¹⁵⁰ "Nicaragua: Private Fight," *Time*, XXVII (June 15, 1936), 24.

¹⁵¹ "Nicaragua: 'Time to End!'" *Time*, XXVII (June 22, 1936), 32.

¹⁵² *Ibid.*

Book Reviews

The Story of Marquette University. By Raphael N. Hamilton, S.J. Marquette University Press, Milwaukee. 1953. Pp. xii, 434. Illustrated.

Fifty years ago Alexander J. Burrowes, S.J., sat at the control desk of Marquette College, Milwaukee. When in 1908 he retired from office, he left his school a university. A man of vision, who could plan, direct, and inspire enthusiasm, he put a permanent stamp on the administration that is today a model of businesslike management. His unique contribution as an educator was to see that the centuries-old *Ratio Studiorum* must now widen its scope and take the forces of his Order into a new and larger complex organization. He won two notable victories, remarkable for his day. In 1907 the legislature of Wisconsin authorized the amalgamation of a university corporation. During the next twelve months the nucleus of the arts college took on medicine, dentistry, pharmacy and engineering. He then left to his successors, men such as Noonan, Fox, Magee and McCarthy, a magnificent opportunity. How they used it is told in the fine work here under review.

Marquette University's actual origin had an earlier date. Bishop Henni ruled the See of Milwaukee from 1844 to 1881. The name of Marquette, so closely connected with Wisconsin, led him on a trip to Europe in 1848-1849 to find an endowment and a faculty of Jesuits who would build a college in his diocese. He got the fund, a small but important \$16,000, and in due time he found the organizer, Stanislaus P. Lalumiere, S.J. In the very year of his death the dream came true, and the college sprouted from a tiny academy into a permanent institution. Today it stands unique in many ways. Its city is solidly back of its growth. Its alumni and alumnae yield to none in remaining a vital part of their Alma Mater. The story of its impact on other universities makes a most interesting study for educators and historians.

A university is a living thing. It grows from ideas, founders, faculty, students, native environment, and if it be genuine it reflects every sound institution and tradition operating within its locale. The writing of its history, then, is a task that calls for much more than the historical hack who can piece together antiquities and current data. For it has a character, and to discover that character requires that the author live very close to the living thing for a time long enough to become a real part of its life. The task includes, too, a mature understanding of what makes a university, and thus the composer must set his story in the long story of university education. In this case, that of a Jesuit university, he must have caught the idea of Burrowes and see how his institution embodies the typical Jesuit traits as educators, and how their compact regimen can adapt itself to the "Great Frontier" of which Webb speaks.

The audience addressed in this work is the public of the university, students and graduates, the city and state, and the host of men and women

whose generosity furnished the backing for its whole history. With this in mind the author has woven the tale into a broad background of the changing student body and the surrounding populace, and thus the notable advances—and the discouraging setbacks—of the school stand on the actual bases of external situations. As is becoming, the work has a clearly Turneresque motif, and the old professor would delight in seeing his famous theory so plainly proven in the case of Marquette.

As did his institution, so Hamilton begins in simple style. Then come the crises—the first World War, the North Michigan Land Company affair, the Roaring Twenties, the Revolution of the Thirties, more war and more expansion. These events challenge the pen and bring the staid historian to a dramatic narrative. Though the fundamentals here are the policy-makers and the furnishers of brick and mortar, the more notable effort portrays the way in which student composition affected the advances in administrative action. No one has better described the mutations of life on a campus in those days, nor penetrated better into student habit and opinion. One can reconstruct the social story of our land in those days from the chapters of this book.

In judging the work, it is clear that the writer possessed the two indispensable prerequisites: the abilities of a trained scholar living in his very subject, and an enviable supply of historical materials. His style is urbane, alert, candid and penetrating. His citations are impeccable and most abundant. In particular the frequently mentioned "B. of S.", or Bureau of Information and Statistics maintained since 1925, offers a peerless source of supplementary data. And the businesslike array of university archives listed in one appendix will cause envy in anyone attempting a similar production. The Press turned out a commendable volume, notwithstanding some minor offenses by linotyper or proofreader. A handsome set of illustrations keeps the reader close to the scene. The index is comprehensive.

W. EUGENE SHIELS

Xavier University, Ohio

The Spanish Jesuit Mission in Virginia 1570-72. By Clifford M. Lewis, S.J. and Albert J. Loomie, S.J. Published for the Virginia Historical Society by the University of North Carolina Press. Pp. 294. Illustrated.

This book is the first detailed study of the ill-fated attempt of a group of Jesuit missionaries led by Juan Baptista de Segura to establish a Jesuit mission in the Chesapeake Bay area in 1570, the farthest northern penetration in Spain's march of empire. The dreams of a Spanish colonial empire on the mid-Atlantic coast of Luis de Velasco, the Viceroy of New Spain, and Pedro Menéndez de Avilés, the Adelantado of Florida, were nurtured by the search for a northern strait to China and the political and economic rivalry of France, England and Spain. The capture of an Indian boy

from the Virginia coast on a previous voyage and missionary failures in Florida sharpened the desire of Father Segura to seek a new location for a mission. The attempt ended in tragedy and failure. Two years later a relief expedition rescued the sole survivor, the boy Alonso. All the Jesuits were massacred by the Indians. Thirty-five years later the English landed in Jamestown to fill the vacuum created by Spain's unwillingness to expend the necessary resources to maintain and expand that precarious foothold in the Chesapeake bay region.

Father Segura's plan of action coincides with, and may have directly been inspired by the missionary credo that Bartolomé de las Casas formulated in *Del único modo de atraer a todos los pueblos a la verdadera religión*: "If the truth is proposed quickly with angry shouting or perhaps amid the clatter of arms and the terror of threats and beatings and domineering cruelty, it is clear that the human mind is prostrate with fear . . . so that the will can not be moved but is forced to hate." This formula whose key concepts are peace, reason, and will requires the total absence of Spanish civilians and soldiers whose material needs represented the principal roadblock in the path of the missionary. The wills of the Indians must be inclined towards accepting the truths of the Gospel by rational appeals, by good examples and by gentle persuasion. In the Las Casian tradition Segura adamantly refused to be accompanied by a military garrison, placing full reliance on Don Luís, the Indian boy who had been educated by the Jesuits after having been captured on an earlier expedition.

The nobility of purpose which inspired both Las Casas' thinking and Segura's action, although not the only expression of Spain's Christian humanitarianism as is sometimes thought, yielded meager results on many occasions when it was applied. The postulates of the Las Casian method did not square with the realities of aboriginal society. The natives of the New World in most cases were unwilling to give up their own cultural and religious values to which they were firmly attached without their being compelled to do so. Small Spanish garrisons in the neighborhood were needed to destroy the backbone of native resistance and to insure that it remained broken. In spite of all of the Las Casas-inspired legislation coming out of Spain to the contrary, most of the missionaries in America by the end of the sixteenth century and even before came to realize that the spiritual and the temporal conquests of the natives were but complementary aspects of the same process. The dramatic failures of the Las Casian method in the New World ought not to obscure, however, the positive achievements of the movement. Bloodshed and violence were sufficiently reduced so that the missionaries could build their spiritual conquest on the solid foundation of the temporal conquest.

The Jesuits had placed all their hopes in reaching the natives through Don Luís. But their protégé failed them. He abandoned the mission. Resenting the Jesuits' censure of his return to polygamy and his conscience disturbed over the genuineness of his conversion, Don Luís became the chief perpetrator of the massacre of the priests who had befriended him with kindness and affection. The Indians plundered the Jesuits' goods, and, to add a macabre note, they attired themselves in the vestments of the fathers.

Overcome by remorse it was the weeping Don Luís who finally arranged for the burial of the men he had slain.

Don Luís "breakdown" is a revealing, if pathetic, incident in the development of missionary methods in the sixteenth century. Don Luís broke under the strain of a responsibility that he was unable to carry. Father Segura and his companions were over-optimistic in assessing the solidity of his conversion. They underestimated the dangers of a relapse into paganism when conditions made this a possible and even a desirable alternative. Above all else they had no means of disciplining him except to censure his conduct, a course of action which only deepened the conflict in Don Luís' tortured mind. In a sense the Jesuit mission in Virginia was predestined to fail, for it lacked too many of the conditions usually present in most of the successful missionary enterprises of the period: the availability of Spanish soldiers, the possibility of penetrating native society through the children, the latter approach presupposing a command of the native language, the possibility of being able to enforce disciplinary action upon the neophytes, and congregating the Indians into villages to facilitate their constant supervision by the missionaries. The story of the Jesuit mission in Virginia is a study in failure, a meaningful failure, however, whose significance and whose pathos were not lost upon contemporaries.

Among the many fine features of this study the authors deserve special praise for the exhaustive job of historical detective work that they undertook in piecing together from the insufficient sources a sound and plausible hypothesis about the location of the Jesuit mission, which they place on the north bank of King's Creek near the York River.

The authors deserve to be congratulated for having made an illuminating contribution to the history of the missionary enterprise in America and the Virginia Historical Society for subsidizing the publication of such a handsome volume containing many fine illustrations.

JOHN LEDDY PHELAN

Newberry Library

Peter E. Dietz, Labor Priest. By Mary Harrita Fox, with a Foreword by Aaron I. Abell, Ph.D. University of Notre Dame Press, Notre Dame, Indiana, 1953. Pp. ix, 285.

Peter E. Dietz, outstanding labor priest, has finally been brought to the attention of the English reading public and to the well-merited place in the history of American social thought which is belatedly being given him. The one chosen to pay this debt of justice was Sister Mary Harrita Fox. This volume is a revision of her doctoral dissertation, a valuable, sympathetic biography, with every mark of genuine scholarship and historical objectivity.

Father Dietz (1878-1947) was born in New York of poor German immigrant parents. He was ordained priest in December, 1904, for the Cleveland Diocese, and from this date until 1922, when he was forced to

withdraw from social work owing to opposition, he devoted his life unstintingly to the cause of the laboring man who saw in him a friend wholeheartedly interested in his welfare. Over a period of eighteen years he was actively engaged in a variety of projects all aimed "to uplift the masses and solve the problems of the workingman. . . ." The part he played in fighting Socialism in trade unions, his organizing among the Catholic workers in the American Federation of Labor of The Militia for Christ, his efforts to form an International Federation of Catholic Trade Unions, his part in the setting up of a Social Service Commission, his striving to coordinate Catholic Social Activity, his launching a school of Social Service, and his developing the first Catholic Labor School with its attendant difficulties leave one in deep admiration for this man who truly "lived before his time." So much of what he recommended and fought for are just now becoming actualities. American labor leaders were loud in their praise of the inspiration, the "trail blazing," and original contributions which this man made to the cause of the American labor movement. His lack of prudence, his tendency to be intolerant and somewhat narrow-minded on certain subjects, his difficulties with superiors, all, understandably enough, diminished the efficacy of his work. Despite his failings, which are not glossed over in the book, his name will rank high in the annals of American labor and first among the crusaders for a practical Catholic social program. Unfortunately, the book is without an index.

CHARLES E. RONAN

University of Texas